



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Folsom Field Office
63 Natoma Street
Folsom, CA 95630
www.blm.gov/ca/folsom

EA Number: CA-180-07-29

Serial Number: CACA 48724

Proposed Action: Access Road Right-of-Way

Location: MS 6611 (por. SW), Section 11, T. 2 N., R. 13 E., MDM; Calaveras County

Applicant: Chris and Sherri Sedler

1.0 Purpose of and Need for Action

1.1 Need for Action

The applicants need the subject right-of-way (R/W) in order to perfect their legal access to a 20-acre parcel of private land, APN 064-014-011, which they acquired from BLM in 2002. The County will not issue a building permit for this parcel unless the Sedlers can show full legal access. As it now stands, the Sedlers have easements for all their physical access except the northernmost ca. ¼ mile, which is known locally as Rainbow Way.

Current access begins at an approach off the west side of Highway 49 about 2 ½ miles south of Angels Camp. This approach, which is located on public land, was re-configured about 15 years ago, when the highway was realigned, and it is the beginning of Rainbow Way. Rainbow Way proceeds SE from this point, basically along the BLM/private land boundary, weaving slightly into private, then back into BLM, and finally exiting BLM at the SW corner of MS 6611. It is the portion of Rainbow Way where it drifts SW onto the private, between the two BLM portions, that the Sedlers lack legal rights. They have been unable to acquire an easement here through purchase.

To avoid being landlocked by the lack of rights on Rainbow Way, the Sedlers want to obtain a BLM authorization to build new road on the BLM land that would connect the two segments already on BLM, placing all of Rainbow Way on BLM land. They would also obtain rights from BLM to use and maintain the entire length of the road on BLM, thus perfecting their legal access.

The applicant has legal and physical access to the subject BLM parcel because the origin of Rainbow Way, where it connects with Highway 49, is located within the BLM parcel.

1.2 Conformance with Applicable Land Use Plans

The proposed action is subject to the 1988 Sierra Planning Area Management Framework Plan (MFP) Amendment. This plan has been reviewed to determine that the proposed action conforms to the land use plan terms and conditions as required by 43 CFR 1610.5. The objective of the MFP Amendment was to augment land tenure decisions (land disposal/retention) of the original 1983 MFP; it also modified decisions of the SYU-15 Timber Management Plan. The proposed action is in the Custodial Management Area.

2.0 Proposed Action and Alternatives

2.1 Proposed Action

The proposed action is to construct, to county and BLM standards, about 688 feet of new road. Overall width of disturbance for the new construction would be approximately 25', so the area of land disturbed by this action would be about 688x25' or 0.39 acres. Terrain for the new construction is a valley bottom that is quite flat; there is a minor seasonal drainage just east of the road alignment. Gradient is not an issue due to the flat terrain. Culverts will not be needed, but some re-channeling of the drainage may be required. Surfacing is currently AC paving on the existing road, and the proposed new segment would likely match.

Because the authorization would also grant use and maintenance rights on 598 feet of existing road, the proposed right-of-way would be in total 1,286' long by 35' wide, encompassing approximately 1.03 acres of public land.

This right-of-way would be for a term of 30 years and would be subject to applicable policy or program requirements and prior existing rights.

2.2 Project Design Features

Road construction and slash disposal will conform to BLM standards, minimizing erosion hazard. See the attached "Exhibit B, Stipulations" and "Standards for Road Construction on BLM Rights-of-Way, Folsom Field Office". Any re-definition or re-channeling of the drainage would have to be approved by BLM. Fresh cuts or fill slopes adjacent to the drainage would have to be treated with anti-sedimentation barriers as required by BLM.

2.3 No Action

The no action alternative would be to not issue a R/W or allow the road construction. In this case, the applicant would not have full legal access and would not be able to get a building permit for his parcel.

3.0 Affected Environment

The proposed right-of-way is in the Sierra Foothills at 1,540' elevation near the bottom of a broad, shallow, NW-trending draw. Permanent water resources are not present in the R/W area; the drainage adjacent to the R/W area carries only seasonal storm runoff. Soils are tan-colored loam over a substrate of metavolcanics; no rock outcrops are present. The plant community is Interior Live Oak Woodland; its species composition is more completely described on the attached biological report. No rare plants or species of interest were observed in the R/W area. Wildlife species of interest include the Valley Elderberry Longhorn Beetle (VELB). More details on wildlife T&E issues are in the attached biological report. Rangeland resources are negligible. Forestry resources are not present. Scenic qualities and visual resources have been compromised by the presence of numerous nearby residences, as well as the State Highway. Recreational values are low due to the BLM parcel being split by the State Highway R/W.

A survey for cultural resources was conducted but no cultural sites were found.

4.0 Environmental Effects

The following critical elements have been considered for this environmental assessment, and unless specifically mention later in this chapter, have been determined to be unaffected by the proposal: air quality, areas of critical environmental concern, prime/unique farmlands, floodplains, water quality, hazardous waste, cultural resources, native American concerns, wetlands and riparian zones, wild and scenic rivers, wilderness, invasive, nonnative weeds, and environmental justice.

Threatened and endangered species issues would have to be resolved through Section 7 consultation with the U. S. Fish and Wildlife Service (FWS). FWS has a more-or-less standard protocol for loss of potential VELB habitat. BLM will require, as a condition of the R/W grant, that consultation be completed and that any required mitigation be implemented (see Stipulations, items 19 and 20).

4.1 Impacts from the No Action Alternative

Impacts to resources described above would not be expected from the no action alternative.

4.2 Impacts from the Proposed Action

Approximately 0.39 acres of native vegetation (brush, woodland and ground cover) would be removed during road construction/improvement. Compliance with BLM and county standards for road construction and design, as well as BLM's own surface stabilization requirements, will help reduce the risk of road related erosion to small, immeasurable levels.

The site contains potential VELB habitat, in the form of nine stunted elderberry bushes that would be lost to road construction. FWS has a mitigation protocol for projects that might affect VELB habitat ("Conservation Guidelines for the Valley Elderberry Longhorn Beetle", http://www.fws.gov/sacramento/es/documents/velb_conservation.htm), implementation of which would reduce loss to acceptable levels.

No residences are near enough to be affected by the temporary dust and noise of road construction and improvement. The subject road provides access to about seven existing residences; the amount of additional traffic generated by one new residence would not be significant.

4.3 Cumulative Impacts

Erosion, rare plants, and wildlife in general are not expected to be impacted at the site specific scale. Therefore, cumulative impacts at a larger scale are not expected. The project is not expected to cumulatively contribute to dust and noise because these road construction-related impacts would be very short term and there are no other known similar activities expected to occur at the same time in the nearby vicinity that could conceivably combine to constitute a considerable cumulative impact.

5.0 Agencies and Persons Consulted

5.1 BLM Interdisciplinary Team

- Dean Decker, Rights-of-Way, Cultural Resources and EA Writer
- Jeff Babcock, Engineering
- Al Franklin and Peggy Cranston, Biological Resources (plus informal consultation with Amy Fesnock, USFWS)

5.2 Availability of Document and Comment Procedures

The EA, posted on Folsom Field Office's website (www.blm.gov/ca/folsom) under "Information, NEPA" (or available upon request), will be available for a 15-day public review period. Comments should be sent to the BLM at 63 Natoma Street, Folsom, CA 95630 or emailed to us at ca180@ca.blm.gov.

EXHIBIT B

CACA 48724 (2800)

Date:

STIPULATIONS

1. The right-of-way is subject to all valid existing rights.
2. In all operations associated with the use of the right-of-way, the holder shall comply with the relevant provisions of the California Interagency Cooperative Fire Prevention Agreement.
3. All operations under this grant shall comply with State and Federal laws concerning the use of insecticides, herbicides, fungicides, rodenticides, and other similar substances. These shall be used only in accordance with their registered uses and within the limitations imposed by the Secretary of the Interior. Prior to use of such substances, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of substance to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information required by the authorized officer. All use of substances shall be in accordance with the approved plan. Approval of the plan will be at the discretion of BLM, and approval may be withheld if the Authorized Officer determines that herbicide use would be inconsistent with the agency's land management objectives.
4. With regard to surfacing materials used in road maintenance and construction, the holder shall comply with the California Code of Regulations , Title 17, Section 93106, *Asbestos Airborne Toxic Control Measures for Surfacing Applications*, as well as all local and county Air Pollution Control and Air Quality Management District rules and regulations relating to asbestos control measures, including those developed by county governments pursuant to Health and Safety Code Section 39666.
5. The holder shall maintain the road in a safe, usable condition by providing road surfacing appropriate to loading and traffic volume, making provisions for proper drainage of the roadway performing grading as necessary, and taking any other measures required to prevent erosion and other damage to the roadway or surrounding public land.
6. The holder shall contact the authorized officer in case of a change in the holder's mailing address, change in corporate or business status, change in the holder's designated agent, or in case of a sale of the property served by the right-of-way.
7. The holder will adhere to the attached "Standards for Road Construction....".
8. No trees over 6" dbh shall be removed without the permission of the authorized officer.

9. Prior to removal of any trees having commercial value, the holder will negotiate a timber sale contract with BLM for purchase of the trees.
10. Slash generated in the course of clearing vegetation shall be disposed of either by: (1) removal from public land; or (2) lopping and scattering (all slash must be reduced to a size that is within 12" of the ground at all points); or (3) burning in compliance with state and local codes (burn sites on public land must be approved by the authorized officer).
11. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
12. The holder shall furnish and install culverts of the gauge, materials, diameter(s) and length(s), indicated and approved by the authorized officer. Culverts shall be free of corrosion, dents, or other deleterious conditions. Culverts shall be placed on channel bottoms on firm, uniform beds which have been shaped to accept them and aligned to minimize erosion. Backfill shall be thoroughly compacted. No equipment shall be routed over a culvert until backfill depth is adequate to protect the culverts.
13. During construction, the holder will furnish and apply water, as needed, for dust control.
14. No construction or maintenance activities shall be performed when the soil is too wet to adequately support construction equipment.
15. Prior to construction, the holder will place construction control stakes as directed by the authorized officer (may include: limits of R/W; limits of disturbance; grading; culvert location, slope, etc.). When staked, the authorized officer will be notified and allowed the opportunity to inspect the staking.
16. The holder shall not re-define, re-channel, or re-align any existing natural drainage channels without the permission of the Authorized Officer
17. Any fresh cut or fill slopes created by the holder that are situated adjacent to a natural drainage channel shall be treated with mulch, matting, or wattles, as directed by the Authorized Officer.
18. Fences, gates, and brace panels shall be reconstructed to appropriate Bureau standards and/or specifications as determined by the authorized officer.
19. At least 6 months prior to beginning any construction or ground disturbance, the holder shall inform the BLM of his intent to construct, so that BLM can complete its consultation with U.S.F.W.S.
20. The holder(s) shall comply with any applicable Valley Elderberry Longhorn Beetle mitigation required by U.S.F.W.S.