



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

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**EA Number:** CA-180-10-02

**Serial Number:** CACA 48368

**Proposed Action:** Location of a Gate within an Access Road Right-of-Way on Public Land

**Location:** SESE, of Section 8, T. 1 S., R. 15 E., MDM; Tuolumne County  
NENE of Section 17, T. 1 S., R 15 E., MDM; Tuolumne County

**Applicant:** Joy and Ronald Lopez

### 1. Background

In August 2006 BLM received reports of unauthorized use of public land located in Tuolumne County. The report indicated that there was personal property being stored on public land, the road was being graded and the public access was restricted. Dean Decker, our right-of-way specialist, visited the site on August 8, 2006.

The road was being utilized by Mr. and Mrs. Lopez to access their private parcel APN 065-040-05. Mr. & Mrs. Lopez were notified that they did not have exclusive rights to the subject road and that they will no longer be able to store personal property on public land and that the grading of the road was unauthorized. When the Lopez' purchased their parcel in 2005, they believed they had acquired rights to the subject segment of road as an appurtenance to their land. For this reason, they graded the road while developing their home site. The road is their only possible physical access to their home site. River Road originates at Jacksonville road and winds along the hillsides above the western shore of Lake Don Pedro's northeastern arm.

The road was originally constructed in the mid 1970's by TID/MID, the developers of Lake Don Pedro. The purpose of River Road was to provide a continued access to the patented mining claims along the west side of the river of which the Lopez parcel is one and to provide the public with access to federal and project lands in the vicinity of the reservoir.

The County of Tuolumne applied for a BLM right of way (R/W) for those portions of River Road on public land in 1987. BLM granted to the County of Tuolumne a R/W that extends all the way to the southern boundary of Lopez parcel. However, the portion of River Road that is maintained by the county and that the county designates as River Road /County Road extends only to a chain link gate situated on public land. The gate was apparently designed to restrict public access to APN 065-040-05 and was locked with a cable for at least the period from 1987-1996.

In September 2006 Ronald and Joy Lopez filed for a R/W that would authorize their continued use and maintenance of the existing access road. The road R/W was granted to the Lopez' on September 20, 2006

In November 2006 there was a field check and meeting with the Mr. & Mrs. Lopez regarding public access and the function served by the gate. At that time it was decided that the gate could remain as it was, subject to the following conditions:

1. By January 31, 2007 BLM would install a sign on the gate stating it is public land for a distance of 1000' beyond the gate, no unauthorized motor vehicles are allowed beyond the sign, public access beyond the sign is pedestrian only
2. BLM will install a BLM padlock on the chain at the gate, in addition to the Lopez lock
3. The configuration of the gate will remain unchanged
4. The public has a right to casual use of public land, including pedestrian use of the road up to the property line.

Early in 2009 Mr. Lopez verbally requested to replace the chain link and installed a wrought iron gate and was verbally granted permission to install the new gate. A BLM sign was provide to be posted on the gate, stating – No unauthorized Vehicles beyond this point, Pedestrians and Authorized Vehicles only, BLM Land next 1,000 ft. Since installation of the new gate, Mr. Lopez has also requested to install a camera and an electric opening gate.

On August 24, 2009, BLM requested that the Lopez' to remove the right side panels of the gate to allow public access beyond the gate. At this time the side panels have not been removed.

## **1.0 Purpose of and Need for Action**

The gate in its present location is located on a BLM-granted right of way on BLM-administered public land. The gate is necessary to help enforce BLM's route decisions in the Sierra Resource Management Plan and to help prevent trespass on private property owned by Joy and Ronald Lopez. The purpose of this environmental assessment is to determine if any of the following proposals affecting the existing gate are in conformance with applicable land use plans and would have a significant impact: the existing gate would remain at its present location; the gate would be removed from public land; or the gate would be removed and replaced with original chain link fence. We are also considering the installation of an electronic gate and camera on the existing gate.

### **1.1 Conformance with Applicable Land Use Plans**

The proposed action is consistent with the Sierra Resource Management Plan Record of Decision (ROD), approved in February 2008. Under this plan (Map 4a-4d), the road where the existing gate is located is not designated as available for motorized vehicle use by the general public. Members of the public need authorization (i.e., R/W) to drive motorized vehicles on the road.

## **2.0 Proposed Action and Alternatives**

The proposed action is to leave the existing gate in its current location within the road right-of-way.

## **2.2 Alternatives being considered**

- #1. (Proposed action) Leave the existing iron gate where it is located on public land
- #2. Remove the iron gate from public land
- #3. Remove iron gate and reinstall chain link gate in the same location
- #4. Leave the iron gate where it is located and allow the installation of an electronic gate and camera

### **Alternative # 1 (Proposed Action)**

Under this alternative (the proposed action) the existing iron gate would remain in the current location. Only the R/W holders, Joy and Ronald Lopez, would have permission to drive a motorized vehicle through the gate. The current location of the gate provides a large turnaround area for vehicles. Removing one of the right side panels of the gate would provide non-motorized public access.

### **Alternative # 2**

Under this alternative the iron gate would be removed from public land. The gate could be moved to the boundary of the private parcel owned by Joy and Ronald Lopez. There is an area just before you enter the Lopez parcel that could serve as a vehicle turnaround area.

### **Alternative # 3**

Under this alternative the iron gate would be removed and a chain link gate would be installed in its place. This alternative is more in keeping with the type of closure usually done on BLM-administered land and it would provide for non-motorized public access.

### **Alternative # 4**

This alternative is to leave the iron gate where it is located and allow the installation of a camera and electric gate operated by Joy and Ronald Lopez.

## **3.0 Affected Environment**

The following critical elements have been considered for this environmental assessment, and unless specifically mentioned they have been determined to be unaffected by the proposal: areas of critical environmental concern (ACEC), prime/unique farmlands, floodplains, wetlands and riparian zones, wild and scenic rivers, wilderness, and environmental justice.

The area of potential effect—the existing iron gate and 1200 ft of road—is located in the central Sierra Nevada foothills. Specifically the gate and road are located near Lake Don Pedro—formerly the Tuolumne River canyon. The gate provides a barrier that does not allow motorized vehicle access, including access by off highway vehicles (OHV). Past the gate the road is narrow with a steep hill side on the left and a sharp drop on the right side of the road. The road enters the Lopez property.

The vegetation and wildlife are typical for this area. Cultural resource sensitivity is low due to the relatively steep terrain and lack of perennial water sources. Prehistoric- (i.e., bedrock mortars, lithic scatters, isolated lithics) and historic-era (gold mining) resources may occur in the area. No modern Native American issues are anticipated.

Recreational use of BLM-administered land is considered to be low. The area may see occasional hunting use. BLM manages this area in accordance with class III visual resource management (VRM) standards. BLM's objective for class III is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat basic elements found in the predominant natural features of the characteristic landscape.

The area of potential effects is not located within a specific land use designation area, including an ACEC, wild and scenic river, wilderness and wilderness study area, or special recreation management area.

## **4.0 Environmental Effects**

The following critical elements have been considered for this environmental assessment, and unless specifically mentioned later in this EA, have been determined to be unaffected by the proposal: areas of critical environmental concern, prime/unique farmlands, floodplains, hazardous waste, wetlands and riparian zones, wild and scenic rivers, wilderness, and environmental justice.

### **4.1 Impacts from Alternative 1 (the Proposed Action)**

Keeping the existing iron gate in its present location, as proposed under alternative # 1, would not negatively affect air, soil, and water resources. Nor would it negatively affect vegetation, wildlife, cultural, and visual resources. In fact, keeping the iron gate in its current location, unchanged, is in keeping with the route decisions in the Sierra Resource Management Plan. In the Sierra RMP, BLM designed not to designate the subject road as a public motorized route of travel. The gate would help to enforce this decision, which was made to help protect environmental resources on public lands, provide straightforward safe access to public lands, and prevent trespass on the adjacent private lands. Specifically the iron gate would help to prevent trespass on the Lopez property. The public could still access public lands beyond the gate by non-motorized means (i.e., walking, mountain biking, etc.). The level of recreational use on public lands in the area is considered to be low and should not be negatively affected. People can still access the public lands beyond the gate to hunt or view wildlife. Motorized use would be negatively affected, but again BLM has already made the decision in the Sierra RMP to not designate the road as available for general motorized use.

BLM's decision in the Sierra RMP to limit motorized use to designated routes (not including the subject road) is well justified. With increasing OHV use throughout the region, BLM needed to limit motorized use to designated routes. Not doing this (leaving all routes and/or lands open) was gradually creating an unsafe transportation system that was not feasible for BLM to manage. As the route system continued to develop, access was becoming less straightforward to the public. Motorists could get lost or stuck on newly developed routes. Given the scattered nature of BLM lands, impacts to adjacent private property (dust, noise, trespass, etc.) were unavoidable because virtually all of the routes BLM manages are route segments that traverse public and private land. Working with private landowners to resolve trespass problems could place a tremendous management burden on BLM. Many existing routes have been created without BLM authorization or have become unsafe to drive, even for dirt bikes. Such routes would remain unsafe and difficult for BLM to manage. Adverse impacts to private property would likely occur on a wide scale due to trespass while accessing BLM roads.

## **4.2 Impacts from Alternatives 2 to 4**

Under alternative # 2, the existing iron gate would be removed, potentially allowing unrestricted public motorized use on the road and on the public lands it accesses. This alternative is inconsistent with the route decisions in the Sierra Resource Management Plan, in which BLM decided to not designate the subject road as available for general public motorized use. The existing iron gate helps to enforce this decision. Without the gate, it is possible for off highway vehicle enthusiasts to create new unauthorized trails on public lands and to trespass on the Lopez property. Motorized recreation may benefit, but there could be negative impacts to water, soil, vegetation, wildlife, cultural, and visual resource values as a result of unrestricted cross-country motorized vehicle use. There is also a negative social impact to Joy and Ronald Lopez because motorized vehicle users would potentially trespass on their land.

Under alternative # 3, a chain link fence would be built in the same location as the existing iron fence. A gate on the road, whether it is chain link or iron, supports the route decisions in the Sierra Resource Management Plan. Therefore, alternative # 3 would have the same effects as the proposed action alternative # 1.

Installing an electric gate and camera, as proposed under alternative # 4, does not provide any benefit to the public or BLM. This alternative would have the same effects as the proposed action alternative # 1.

## **4.3 Cumulative Impacts**

The potential negative cumulative impacts of limiting motorized use to designated routes were considered in the Sierra Resource Management Plan Final Environmental Impact Statement. It was determined that not designating the subject road—as well as many other roads on public lands in the region—would not have a negative cumulative impact on motorized use. Demand for motorized recreation is expected to be met on other lands in and outside the management of the Mother Lode Field Office. OHV routes are provided on nearby national forests and public lands managed by the California Department of Parks and Recreation.

## **5.0 Agencies and Persons Consulted**

No special status animal or plant species (or their habitat) were found; therefore, consultation with US Fish and Wildlife Service is not necessary.

## 5.1 BLM Interdisciplinary Team

*/s/ James Barnes*

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NEPA coordinator/cultural resources

*/s/ Jeff Horn*

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Recreation

*/s/ Albert Franklin*

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Botany

*/s/ Peggy Cranston*

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Wildlife

*/s/ Jodi Lawson*

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Realty

## 5.2 Availability of Document and Comment Procedures

This EA, posted on Mother Lode Field Office's website ([www.ca.blm.gov/motherlode](http://www.ca.blm.gov/motherlode)) under Information, NEPA (or available upon request), will be available for a 15-day public review period. Comments should be sent to the Mother Lode Field Office, 5152 Hillsdale Circle, El Dorado Hills, CA 95762 or emailed to us at [ca180@ca.blm.gov](mailto:ca180@ca.blm.gov).