

**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

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December 19, 2007

File No.: 001.A9293.07-1662-1.051

Mr. Randy Moore  
Regional Forester  
USDA Forest Service  
Pacific Southwest Region  
1323 Club Drive  
Vallejo, CA 94592

Dear Mr. Moore:

We are in receipt of your letter dated November 28, 2007, memorializing the August 7, 2007, meeting between your staff and our Planning and Analysis Division staff wherein your process for designating your maintenance level (ML) 3 U.S. Forest Service (USFS) routes as "mixed use" was discussed.

Since the August 2007 meeting, the California Highway Patrol (CHP) has received inquiries from recreational groups and other interested individuals regarding this issue and after reading your letter, I believe clarification of the CHP's position and the April 2005 letter is necessary.

When Mr. Blackwell contacted the CHP in January 2005, he asked specific questions without providing any history/background to the issues. Our response was accurately drafted to answer his specific questions, but it was not intended to apply to all of the national forest system roads; the USFS roadways are too diverse in their composition, especially the ML 3 roadways.

It was never our intent to imply that the USFS could not designate their ML 3 roadways for legal off-highway vehicle (OHV) use. Therefore, with our new knowledge of the history and background of the issues, we will once again answer the 2005 questions.

1. Are your ML 3 roadways considered "highways" under Section 38001 of the California Vehicle Code (VC)?
2. Do the "combined use" regulations (Section 38026 VC) apply to your roadways?

Mr. Randy Moore  
Page 2  
December 19, 2007

The VC has to be general in nature so it may apply to different situations and interpretations. Section 38001 VC states:

**"For purposes of this division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted."**

We are not familiar with all the ML 3 Forest Service roadways, but if they are gravel or other dirt or unpaved roads that have been operating as mixed use roadways for years, it is our belief these roads would fall under the "roughly graded trails and roads upon which vehicular travel by the public is permitted" portion of Section 38001 VC and would, therefore, be eligible for your mixed-use definition.

Additionally, I think it is important to point out that "mixed use" and "combined use" are two different functions. "Mixed use" is a USFS term and applies to USFS roads and does not require the CHP's approval before designation. Combined use is more restrictive than the USFS mixed use category as it requires OHV riders to be licensed operators as well as to have current vehicle insurance.

"Combined use" is defined in the VC and is intended for roadways that are included in the definition of "highway," but which do not qualify for the Section 38001 VC exception for purposes of allowing registered off-highway vehicle use. These have generally been paved roads that are part of a local or state designated street and highway system.

Combined use segments are up to three-mile portions of a highway (constructed so as to safely permit the use of regular vehicular traffic as well as OHVs) that serve as a connecting link between:

- ✓ Off-highway motor vehicle trail segments, or
- ✓ An off-highway motor vehicle recreational use area and necessary service facilities; or
- ✓ Lodging facilities and an off-highway motor vehicle recreational facility.

These types of proposals do require the CHP's approval and require erection of Department of Transportation-approved signs.

Mr. Randy Moore

Page 3

December 19, 2007

It is unfortunate that our first letter has, at times, been misinterpreted and resulted in unintended consequences. If you have any questions, you may contact Chief Jim McLaughlin of my Planning and Analysis Division at (916) 657-4098.

Sincerely,



J. A. FARROW

Deputy Commissioner

cc: Angeles National Forest  
Cleveland National Forest  
El Dorado National Forest  
Inyo National Forest  
Klamath National Forest  
Lake Tahoe Basin Management Unit  
Lassen National Forest  
Los Padres National Forest  
Mendocino National Forest  
Modoc National Forest  
Plumas National Forest  
San Bernardino National Forest  
Sequoia National Forest  
Shasta-Trinity National Forest  
Sierra National Forest  
Six Rivers National Forest  
Stanislaus National Forest  
Tahoe National Forest