

## Request for clarification from the BLM regarding ROW and use of the Privacy Act etc.

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Message contains attachments

[Placitan Updated BLM request2.pdf \(32KB\)](#)

Hello Sarah,

I have updated the letter as we discussed on Friday. Thanks much for your attention to this matter!

Patience

**Senator Elect Tom Udall  
c/o Sarah Cobb Udall Staff  
Civic Center Circle, NE,  
Rio Rancho, NM 87144  
(505) 994-0499; 3200**

Dec 5<sup>th</sup> 2008  
Updated Dec 14<sup>th</sup> 2008

Re: Request for clarification from the BLM.

**The BLM has removed gates exactly where Sandoval County has planned a right of way (ROW) and Loop Rd across the BLM and through Placitas as per their 2007 Annual Development Report. This is a concern as Placitas is in consensus and in strong opposition to any Loop Rd through Placitas as well documented through the Placitas Area Plan in progress by Sandoval County. This is also exactly where Google Maps shows a new Highway called North Mustang Highway which also shows this road extending out across the BLM toward Al Baca's land where County planner Mike Springfield stated that Al Baca had granted a ROW to the County. Sandoval County has publicly denied they are pursuing this "Loop Rd" throughout the Placitas Area Plan time frame until recently when Placitans published the DOT Corridor study which openly directs the County to pursue this Highway.**

Dear Honorable Senator Elect Tom Udall,

Thank you for your staff member Sarah Cobb's phone calls of Dec 4<sup>th</sup> and her time on Friday Dec 12<sup>th</sup>. There is an issue regarding representation for Placitans versus special interest groups including out of state developers, Washington Lobbyists, and local government entities. Unfortunately Placitas cannot vote their way out of this locally, as they are currently gerrymandered into all but complete political irrelevance.

This political situation appears to have made it almost impossible for even a United Placitas of over 6000 individuals to be heard with respect to their long term concerns about the Proposed Loop RD through their rural community, BLM lands, wild life corridor, and wild horse habitat in Placitas. Concerns also include pollution from 21,000 trips per day on a proposed 4 lane Loop Rd, I40 alternate (complete with Semi's) per the DOT study which Placitans seem powerless to stop and almost, to a person, do not want.

Placitans are no longer lulled by the "lack of monies right now" (placebo) to accomplish this Loop Rd, as finally they have received open confirmation that Sandoval County maintains the "right" to implement this Loop RD. They are aware as well that the (population projection flawed) DOT corridor study also advises the County to keep this option open and to communicate this to the BLM.

The immediate concern is that the BLM has opened up a right of way from the BLM to Indian Flats Mesa immediately west of the Windfall Subdivision owned by a Washington Lobbyist based out of Maryland. This is interesting on many counts, especially the owners documented work with the BLM and Congress toward obtaining funding for the current Placitas BLM RMP update.

I am asking your help Representative Udall in obtaining responsive answers to the questions below. We have not received the same answer twice, and have received no answers which appear in line with conditions on the ground.

**WHY OPEN A RIGHT OF WAY NOW and install a cattle guard?**

1. **The BLM has removed the only gates on the land in question and installed cattle guards right where Sandoval County has planned the Loop Rd** through the BLM and through people's homes. This appears to be an Interesting and possibly disturbing coincidence.
2. There are **no cattle on this BLM and haven't been for years. Why a cattle guard? Why now?**
  - There is **only one active permit for 2 horses in the winter**. Al Baca's permit for 60 cattle is expired, Hector Carrera's permit for 3 cattle is inactive. The 4th permittee with 3 cattle has unfortunately long passed away. Again, why a cattle guard, why now, and why removal of the gate?
3. Open Permit requests: There are (3) two year old open grazing permit requests. They have been on hold for two plus years, predating the current RMP. One of these permit requests is mine/WHOA's. So again, why the removal of the gate and cattle guard now?
4. In the Rio Puerco RMP update in progress, the BLM has made the pre-decision to continue cattle grazing in the BLM's Rio Puerco units 1-4, leaving them status quo. They have however opened the possibility of **ending grazing in unit 5, the Placitas and Budaghers BLM lands. So why install cattle guards and remove gates in unit 5 now?**
5. This BLM land in Placitas is in the middle of a Resource Management Plan Update; is this the right time to be changing things when everything else is on hold and money is tight in the BLM and in our federal government across the board?
6. Why is this gate being opened to allow traffic to flow through unimpeded? What traffic is planned? What traffic studies have been done here to justify this gate removal? By whom?

WHOA does have past FOIA information showing that Placitans have complained specifically about cattle getting into the road. However, there are no cattle now, the fence was not being cut, and the gate was not being left open.

#### **BLM STATED REASONS**

1. The first reason given was "Fence Repair. People are always cutting the fence." Per Tom Gow of the BLM at a Sandoval County public meeting facilitated by Cliff Spirock.
2. The second reason given was "Increased traffic," per John Hawkos BLM law enforcement officer on 12/09/08.
3. "People are leaving the gate open a lot" as per John Hawkos BLM law enforcement officer on 12/09/08 after I responded to his first stated reason with, "John, I live here."
4. When I stated that no one on this mesa or in the whole of Placitas wants a ROW here, John Hawkos stated that there is already a legal ROW. Even still, why is this unneeded project being accomplished 18 years later when the BLM is always stating they are pressed for money?
5. People who previously drove up to the gate would stop and open up the gate, as the ROW was only on paper and not physically established. Does not removing the gate give this ROW further legal standing?

#### **BLM REASONS NOT IN LINE WITH CONDITIONS ON THE GROUND**

1. Pictures taken 12/09/08 by a concerned Placitan (not myself) document clearly the **fence was not in need of repair**. Moreover, how does removing the gate and installing a cattle guard fix the fence if in fact it did need it?
2. There is **no increase in traffic**, and yet the BLM is preparing for a PLANNED increase?
3. People rarely if **ever leave the gate open**, and these points are both well documented by those who walk their dogs there daily. I can personally see this area from my home and can also attest to all three of these facts. However, if we need every signature on the Mesa, we can also provide this.
4. **The BLM has also already reinstalled the Texas gate for pedestrians next to the new ROW for vehicles.**

#### **BLM AND SANDOVAL COUNTY QUESTIONABLE ACTIONS (IN UNISON)**

As we discussed with Sarah Cobb, there are numerous issues in this category. I will recount a few of them here and if this bears fruit, and you are amenable, I can recount numerous others.

The BLM denied receiving the April 24<sup>th</sup> 2008 Sandoval County request for a ROW through the Placitas BLM while presenting at a Sandoval County public meeting. There were about 200 people seated. In doing so, the BLM basically asserted that WHOA must be mistaken or disingenuous in stating that the County had applied for a ROW, stating that everything that Sandoval County turns into the BLM regarding the Loop Rd is submitted as confidential under the Privacy Act.

The statement by the BLM that the BLM and Sandoval County were treating such information as secret was received with astonishment, disappointment, and even disgust by Placitans. Moreover, though the author of the request to the BLM for a ROW, the Sandoval County head of the Planning and Zoning Department was present; he remained silent though prompted for a response from at least one audience member near him.

This April 24<sup>th</sup> request for a ROW was obtained through Open Record request directly from the County by WHOA. It was produced to Placitans at the next Sandoval County public meeting by yet another Placitan who requested a copy from WHOA. This citizen who had been working closely with the BLM, stood up, produced the document, and basically said shame on the County.

The BLM's response now is that they hadn't seen it. However, it appears the BLM is now acting on the ROW request. Sandoval County had stated previously that they had cancelled the ROW request. Did the BLM receive the cancellation and not ask what it was about? Did the County really cancel it?

In similar fashion, the BLM also denied receiving the San Antonio de Las Huertas (SADLH Land Grant) scoping comments though SADLH confirmed they sent them in on multiple occasions. WHOA received this document directly from SADLH through an Open Records request. SADLH provided these to WHOA in the presence of a number of other Placitan organizations after a dead end with a FOIA request. Another Placitan from another organization requested this document as did WHOA verbally. WHOA's first verbal request to the BLM for this document gained the response on the phone and in person, from the BLM, "Patience, I haven't had a chance to read it yet myself."

The BLM later asked me to produce the SADLH documents for them. This after not producing them under FOIA request. I have notified a Board member of the SADLH government regarding the BLM's claim that they had not received the SADLH Scoping document, If truly missing, this could be rectified.

The BLM and Sandoval County government entities have also both denied Placitans freedom of speech regarding the BLM in Placitas. In the case of the BLM, they decide what we can and cannot talk about; in the case of the County we can not talk about the BLM, or our desires and plans for it, among other infractions of freedom of speech.

### **FUTHER QUESTIONS**

1. Do we have a BLM that is losing documents from two other government entities?
2. Do we have a BLM that is allowing Sandoval County to classify documents as private from the citizens that should be able to see them? Is this a misuse of the Privacy Act?
3. Should documents regarding the proposed Loop Rd I25 to RT14 across the Placitas BLM be kept a secret from the very citizens it would most impact?

These are important questions that must be answered.

### **PREVIOUS ATTEMPTS TO OBTAIN ROW INFORMATION**

A ROW on that is not established physically but only on paper, is not the same as a ROW that is actually open. I peaceably ask the BLM to stop the project until an investigation could be held. Their response was that I was breaking the CFR 40 X by even asking, per John Hawkos. John and I spoke by phone on

during the ROW installation on Dec 9<sup>th</sup>. One BLM employee had offered to let me speak to John on his cell phone.

I had asked previously by FOIA what these cattle guard materials were staged for and got no substantial information in return. I even asked Tom Gow of the BLM in person at the same County meeting referenced above.

### **OPEN GOVERNMENT**

I will appreciate any efforts toward open and transparent government. Less than transparency in government may at times be justified temporarily as “for the good of the people”. However, in the long run, secrecy hurts everyone in our “democracy”. I have always trusted that you were on the right side of openness in government and believed in government for the people.

If this Loop Rd project, and all the secrecy around it, is for the good of the people, it is most certainly against their will. Placitans have clearly told their county government that they want to maintain a rural community, that they do not want a Loop RD, and they want to preserve the wild life corridor. Sandoval County has registered that they have heard these consensus requests. This County government is the also the Placitas RAC representative to the BLM, and has cooperative agency status with the BLM in this RMP; as such, Sandoval County should be representing Placitan views to the BLM.

We remain strong in our hope that you will be the change we need; that you will represent the people vs. the special interests, and that you will demand, ensure, and enforce open government.

Sincerely,  
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Cc Mr Larry Vasquez Region 3 Albuquerque  
Ms. Sara Cotrell for Governor Richardson