State of California • The Natural Resources Agency **Edmund G. Brown Jr., *Governor***

DEPARTMENT OF PARKS AND RECREATION • P.O. Box 942896 • Sacramento, CA 94296-0001 **Ruth Coleman, *Director***
Off-Highway Motor Vehicle Recreation Division
1725 23rd Street, Suite 200
Sacramento, California 95816
(916) 324-5801

Tehachapi Mountain Range – Site Visit

Off-Highway Motor Vehicle Recreation Division

Summary

On August 10, 2011, the Off-Highway Motor Vehicle Recreation (OHMVR) Division received a call from Ms. Mesonika Piecuch of ORV Watch Kern County. Ms. Piecuch expressed concerns regarding off-highway vehicle (OHV) use on the Pacific Crest Trail (PCT) in the Tehachapi Mountain Range of California. In particular, Ms. Piecuch inquired as to whether the Division could investigate an incident of illegal OHV use reported to have occurred on a portion of the PCT. Ms. Piecuch relayed to OHMVR staff that while the incident had been reported to local authorities, she remained concerned that no action had been taken to address the incident or prevent subsequent occurrences.

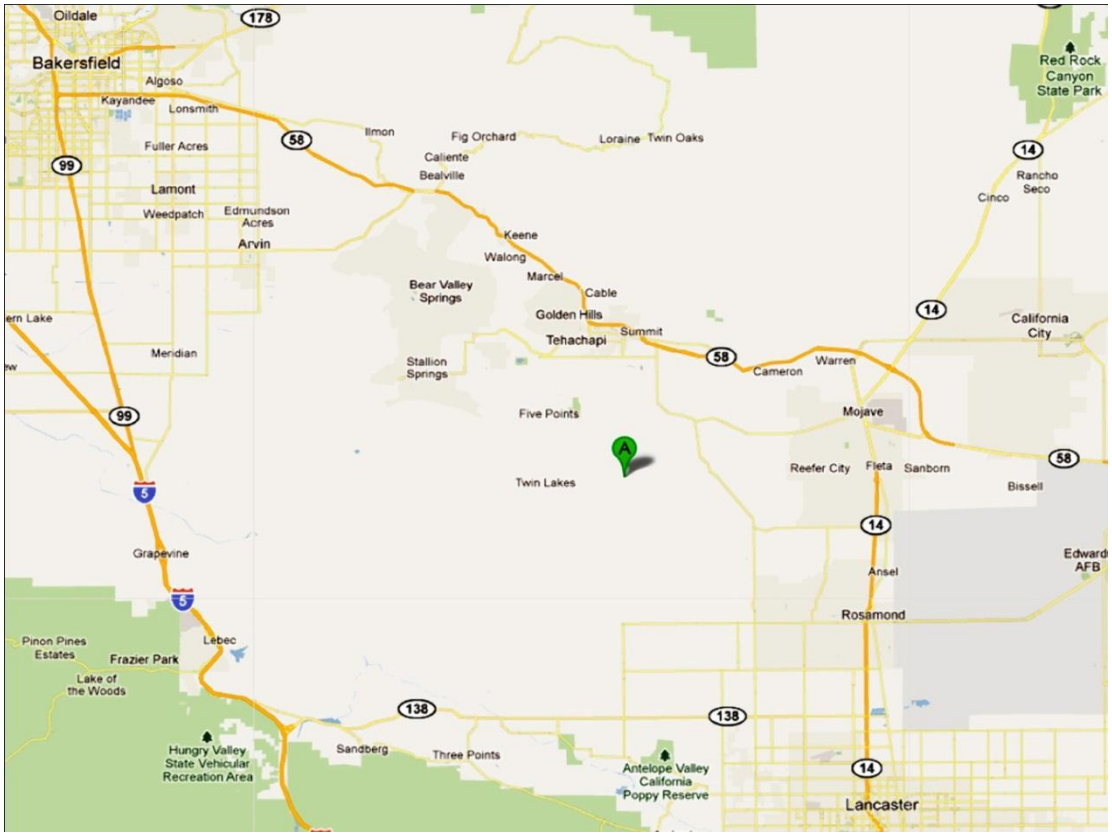
OHMVR Division law enforcement staff initiated a review of the incident to determine what had occurred and what actions may be effective in preventing such occurrences in the future. They contacted numerous individuals and agencies and conducted a site visit.

After evaluating all the available information, it is clear that four motorcycle riders were photographed on private lands on which they did not have a permission slip to ride. It could not be determined if adequate signage was present at the time of the incident to support prosecution of the individuals for trespass.

Details of the investigation, along with recommendations for addressing and preventing future occurrences of trespass and illegal use of the PCT, such as additional signage, public education efforts, and initiating stakeholder meetings, are included below.

Background

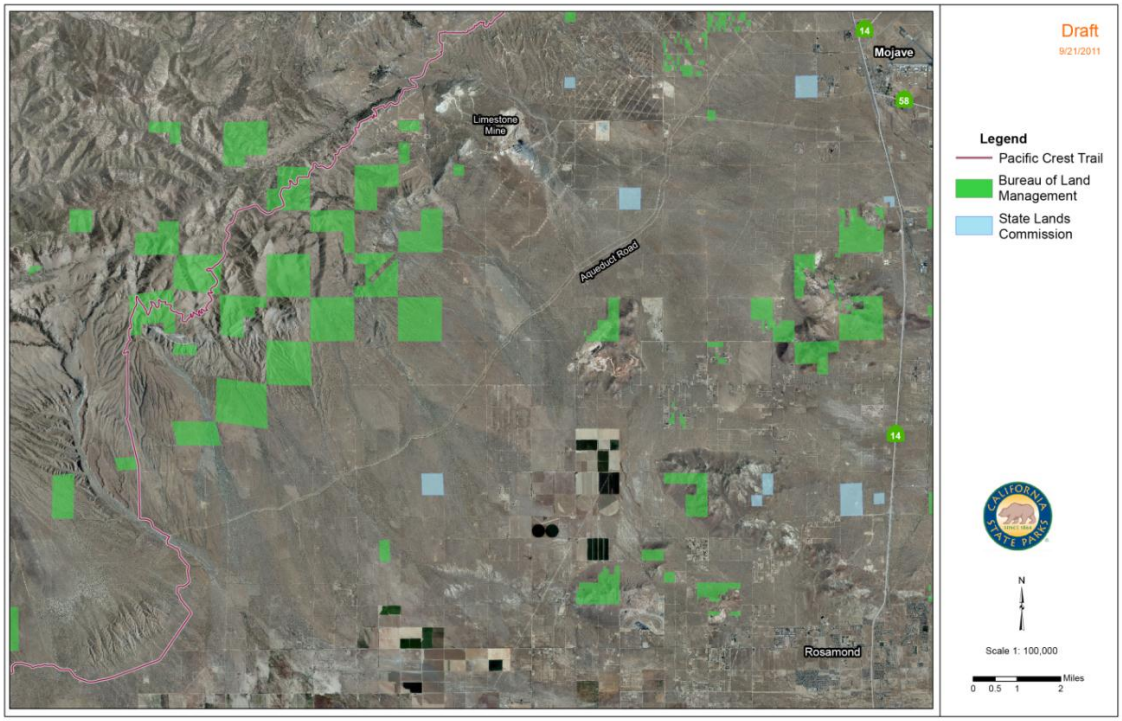
Location – The Tehachapi Mountain Range is approximately 40 miles in length. Tehachapi Pass and State Route 58 are the range's northeastern end, connecting the San Joaquin Valley and Mojave Desert. The Sierra Pelona Mountains, located along California State Route 138, is the range's southwestern end. The reported illegal OHV use was occurring on an 11 mile ridgeline section of the PCT, approximately 6 miles west from the intersection of 170th Street and Rosamond Boulevard in Kern County.



Regional Map - Incident occurred at Point A.

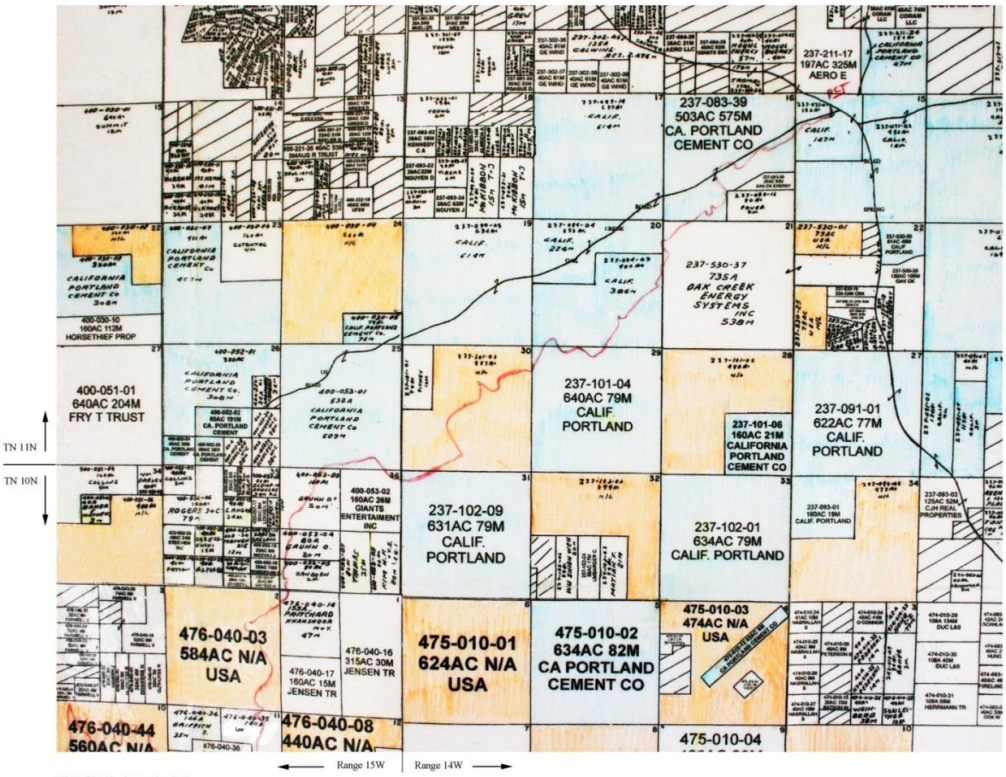
Land Management - The PCT and surrounding lands are managed and patrolled by multiple agencies including the U.S. Forest Service (USFS), Bureau of Land Management (BLM) and Kern County Sheriff's Office (SO). USFS, BLM, and Kern County SO have distinct jurisdictional boundaries regarding the PCT and surrounding lands. Currently the USFS is working on a regional memorandum of understanding with BLM to better define management roles and responsibilities. USFS, BLM, and Kern County SO patrol the PCT year-round, and during peak season all agencies increase patrols on the PCT and surrounding lands. USFS, BLM, Kern County SO, and OHMVR Division enforcement personnel have jointly deployed law enforcement staff multiple times to the PCT and surrounding lands.

Private Lands - There are large tracts of private lands in the region the PCT traverses. Kern County Code 10.40.010 requires OHV operators to possess and present a permission slip upon request by a peace officer during the operation of OHVs on private lands. A group of private property owners have created a motorcycle rider association - the Kern Recreational Land Owners Association (KRLO) - to create legal OHV opportunities on members' private lands. KRLO Association members must abide by a code of conduct and carry a permission slip during OHV operation on the member's lands. The permission slip allows access to one another's property. KRLO Association members do not own private property in the vicinity of the incident being reviewed.



Regional Map - Private and Public Lands

Map Location - Kern County, California
Township 11N, Range 15W & 14W, Township 10N, Range 15W & 14W
Pacific Crest Trail in the Tehachapi Mountains (red line)



USA - BLM lands (peach color)

Calif. Portland Cement (blue)

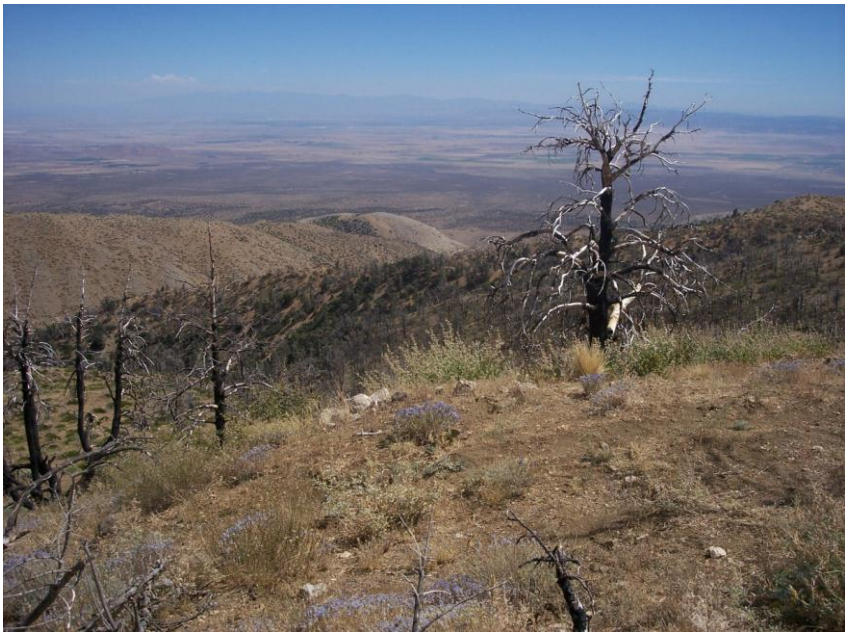
All other land private poperty

Checkerboard pattern of property ownership in the region.

Report of Incident

Initial Report – On August 10, 2011, the OHMVR Division was contacted by Ms. Mesonika Piecuch of ORV Watch Kern County. Ms. Piecuch relayed to OHMVR Superintendent Loren Rex that on January 10, 2010 four riders had been photographed illegally riding on the PCT traveling through private property. Ms. Piecuch reported that ORV Watch Kern County had forwarded the photographs of the motorcycle operators to Kern County SO. Ms. Piecuch relayed to Superintendent Rex her frustrations regarding Kern County SO and the lack of follow up regarding the incident.

Photograph provided to OHMVR Division,
reportedly taken January 10, 2010, of four motorcycle riders



August 16, 2011, OHMVR law enforcement personnel located photograph site,
which is a dirt trail located approximately 60' to the east of the PCT on private land.

January 10, 2010, Riding Incident - On January 10, 2010, individuals with the volunteer group ORV Watch Kern County observed and photographed a group of motorcycle operators traveling on a dirt trail located in the Tehachapi Mountains. Members of ORV Watch Kern County contacted local law enforcement agencies and reported an alleged illegal motorcycle operating incident. The ORV Watch Kern County group provided photographs to area law enforcement agencies.

OHMVR Site Visit - On August 16, 2011, OHMVR Division law enforcement personnel traveled to the Tehachapi Mountains to review trail conditions, signage, and resource impacts relating to the January 10, 2010 incident.

Agency Contacts – On August 16, 2011, OHMVR Division personnel contacted USFS, BLM, and Kern County SO personnel during their site visit and again on a subsequent visit on August 30, 2011. At that time, OHMVR Division personnel requested background information regarding the January 10, 2010 incident. They expressed the need to review the incident and to find possible solutions to the ongoing issues along the PCT. USFS, BLM, and Kern County SO were surprised at the inquiry since the incident had occurred 19 months earlier. Since that reported incident, numerous focused enforcement efforts along the PCT had occurred.

Observations –OHMVR Division law enforcement personnel reviewed various portions of the PCT and surrounding lands. Observations revealed an absence of adequate signage to inform and educate the public regarding trail use and private property boundaries. Other challenges related to land management in the area include multiple jurisdictions along the PCT corridor and surrounding lands, large tracts of lands with absentee owners, and numerous informal OHV staging areas.

During the August 16, 2011 site visit, OHMVR Division law enforcement personnel gathered additional information regarding the January 10, 2010, riding incident. Based on interviews and information from involved parties, OHMVR Division law enforcement representatives concluded that the motorcycle riders were not operating their motorcycles on the PCT. The motorcycle photograph location was located approximately 60 feet east of the PCT.

It is clear the riders were not on the PCT, but were on private property at the time the photograph was taken. Due to the inability to determine the state of signage at the time of the incident, OHMVR Division law enforcement personnel are unable to confirm that enough information existed to pursue charges against the motorcycle riders for private property violations (Penal Code 602.8(a) Trespass).

Pacific Crest Trail Passing Through Private Property

Recommendations & Improvement Strategies

Successfully addressing the situation along this section of the PCT should follow the pattern that has been successfully employed in other areas of the state. This approach incorporates directing riders to appropriate locations, education regarding the consequences of illegal and unmanaged riding, and increased levels of enforcement. In order to prevent illegal use of the PCT and future incidents of trespass onto private lands, the following specific measures are recommended;

- Formation of a stakeholder group, including landowners, riders, land management agency representatives, law enforcement;
- Informational signage directing riders to areas where OHV recreation opportunities are legally available;
- A public information campaign through local media outlets regarding legal OHV opportunities and respecting private lands;
- Increased informational signage along trails, intersections and staging areas;
- Increased signage of private property boundaries; and
- Continued focused law enforcement deployments

<u>Relevant Codes</u>

CA Penal Code

Trespass

602. Except as provided in subdivision (u), subdivision (v), subdivision (x), and Section **602**.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(n) Driving any vehicle, as defined in Section 670 of the Vehicle

Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession. This subdivision shall not apply to any person described in Section 22350 of the Business and Professions **Code** who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor **Code**, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety **Code** constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

602.2. Any ordinance or resolution adopted by a county which requires written permission to enter vacant or unimproved private land from either the owner, the owner's agent, or the person in lawful possession of private land, shall not apply unless the land is immediately adjacent and contiguous to residential property, or enclosed by fence, or under cultivation, or posted with signs forbidding trespass, displayed at intervals of not less than three to a mile, along all exterior boundaries and at all roads and trails entering the private land.

602.8. (a) Any person who without the written permission of the landowner, the owner's agent, or the person in lawful possession of the land, willfully enters any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or who willfully enters upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands, is guilty of a public offense.

(b) Any person convicted of a violation of subdivision (a) shall be punished as follows:

(1) A first offense is an infraction punishable by a fine of seventy-five dollars ($75).

(2) A second offense on the same land or any contiguous land of the same landowner, without the permission of the landowner, the landowner's agent, or the person in lawful possession of the land, is an infraction punishable by a fine of two hundred fifty dollars ($250).

(3) A third or subsequent offense on the same land or any contiguous land of the same landowner, without the permission of the landowner, the landowner's agent, or the person in lawful possession of the land, is a misdemeanor.

Kern County

10.40.010 - Permission required—Exceptions.

No person shall drive a motor vehicle on any lands belonging to or lawfully occupied by another without having, and upon request of a peace officer displaying, written permission from the owner of such lands or his agent or the person in lawful possession thereof; provided, however, that this section is not applicable to persons having visible or lawful business with such owner, agent or person in lawful possession, nor applicable to those lands (or specified portions thereof) owned or administered by a governmental agency which are designated as open to the public for motor vehicle travel.