

Chapter 3: Fire Safety

A. Introduction: Purpose of §4290 and CEQA Fire Safety Obligations

Principle: California law recognizes that wildfire evacuation and emergency response depend on safe, reliable access roads. Public Resources Code § 4290 and its implementing regulations (14 CCR §§ 1270.00 et seq.) establish the **State Minimum Fire Safe Requirements (SMFSR a.k.a. 4290)** for roads, addressing width, grade, surface, and curve radius. These standards are designed to ensure that emergency vehicles can access properties while residents evacuate at the same time.

CEQA further requires agencies to evaluate whether a project would:

1. Exacerbate wildfire risk,
2. Interfere with adopted emergency evacuation plans, or
3. Result in inadequate emergency access [A1].

Argument: High Valley Road — the only access to the Poverty Flats project — fails to meet several § 4290 requirements. This makes the road both a fire hazard and a bottleneck for emergency evacuation. While Caltrans and AASHTO design manuals focus on traffic safety under normal conditions, **§ 4290 standards are specifically tailored to wildfire emergencies**, when roads must carry simultaneous two-way flows of evacuees and fire equipment.

Despite this, the IS/MND concluded there would be “no significant impact” to fire safety or evacuation, relying on traffic screening thresholds and without conducting any analysis of § 4290 compliance. This omission is legally significant because:

- § 4290 establishes enforceable, statewide minimum standards, not optional guidelines;
- CEQA requires disclosure and mitigation of wildfire evacuation risks even if a project is small; and
- The evidence shows that High Valley Road does not meet these standards, making it unsafe for both daily use and wildfire evacuation.

Conclusion: CEQA and § 4290 work together to ensure that projects do not increase wildfire evacuation hazards. Because High Valley Road is the sole access route to Poverty Flats, its compliance with § 4290 is central to the project’s legality. By failing to evaluate § 4290 standards, the IS/MND disregards binding fire safety law and violates CEQA’s requirement to disclose and analyze reasonably foreseeable hazards.

Footnotes for Section A

- [A1] CEQA Guidelines Appendix G, Wildfire (would the project exacerbate wildfire risk, impair emergency evacuation, or result in inadequate emergency access); CEQA Guidelines § 15126.2(a) (agencies must analyze hazards created by a project).
- [A2] Pub. Res. Code § 4290; 14 CCR §§ 1270.00 et seq. (State Minimum Fire Safe Regulations).

B. Road vs. Driveway: Legal Definitions and IS/MND Misclassification

Principle. CEQA requires environmental documents to be accurate and internally consistent, and access classifications must reflect the use-based rules in PRC § 4290/Title 14: a driveway serves no more than four residential units and may not serve commercial/industrial use; any access serving commercial use is a road. There is no such thing as a “commercial driveway.” [B1][B2][B3]

Argument.

(1) IS/MND misstatement. Mitigation Measure WDF-1 states the access will comply with § 4290/4291 “as a commercial driveway.” (p. 73). [B6] That category does not exist in § 4290/Title 14. By inventing it, the IS/MND attempts to apply driveway concepts—including single-lane + turnouts—in place of mandatory road standards for a commercial operation. [B2][B3]

(2) Effect of misclassification. Substituting driveway concepts lowers the safety threshold and signals false compliance, masking that the access must meet road requirements (e.g., two-lane width, all-weather load capacity, grade, curve; turnouts are supplemental only, not a substitute). [B4]

(3) Internal admission of substandard geometry. The IS/MND describes a “private driveway... 16 feet in width with an existing 15-foot gate.” (p. 12). [B5] Those dimensions are inconsistent with the road classification that § 4290 requires for commercial use.

(4) Where the numeric standards are applied. Project-specific application of the § 4290 standards (width, surface/load, grade, curve) to the Poverty Flats on-site access appears in §C of this Chapter (Failure to Apply § 4290 to the Whole Access Route / On-Site Access Road at Poverty Flats).

Conclusion. The IS/MND’s “commercial driveway” construct is inaccurate and unlawful under CEQA because it conceals a life-safety deficiency and defeats informed decision-making. The access must be classified and evaluated as a road under § 4290. The

document must be corrected, and an EIR is required to disclose, evaluate, and mitigate the resulting safety impacts. [B3][B1][B6][B8]

Cross-reference: For how this misclassification also affects cumulative safety and evacuation analysis (including why § 4290 applies to the entire access route, not just on-site segments), see Cumulative Effects Chapter Section G: “Misclassification of the Access Route as a ‘Commercial Driveway’.”

Footnotes for Section B

- [B1] CEQA Guidelines § 15124 (project description must be accurate); PRC § 4290; 14 CCR §§ 1270.00 et seq. PRC § 21168.5 (prejudicial abuse of discretion).
- [B2] 14 CCR § 1270.01(i) (definition of Driveway: limited to four residential units; no commercial or industrial use).
- [B3] 14 CCR § 1270.01(y) (definition of Road: includes all commercial/industrial occupancies).
- [B4] 14 CCR § 1273.06 (turnouts supplement but do not replace minimum road width requirements).
- [B5] IS/MND (April 2025), p. 12 (driveway description, 16 ft. width, 15-ft. gate); p. 73 (Mitigation Measure WDF-1, “commercial driveway” requirement).
- [B6] IS/MND (April 2025), p. 73 (Mitigation Measure WDF-1, “commercial driveway” requirement).
- [B7] 14 CCR § 1270.01(y) (definition of Road: includes all commercial/industrial uses).
- [B8] *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 (misstatements in CEQA documents are prejudicial); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 654–655 (CEQA findings invalid where access constraints omitted or misstated).

C. Failure to Meet § 4290 Minimum Standards

Principle: PRC § 4290 and the State Minimum Fire Safe Regulations (14 CCR §§ 1273.00 et seq.) establish mandatory, statewide minimum standards for roads serving commercial properties. These standards exist to guarantee that emergency vehicles can access properties while residents evacuate simultaneously. Noncompliance creates foreseeable risks to life safety, which CEQA requires to be disclosed and mitigated [C1][C2].

Argument:

1. Failure to Apply § 4290 to the Whole Access Route

Principle: § 4290/SMFSR applies based on use along the entire access route serving residential or commercial occupancies; CEQA requires disclosure and analysis of reasonably foreseeable hazards affecting evacuation and emergency access. [C1]

Argument: The record shows a consistent pattern in which Community Development limited § 4290 review to on-site segments while omitting the off-site approach that actually governs evacuation and responder access to and from the Property. [C6], [C7] By evaluating only the internal segment and excluding the public-road approach, the analysis disregards the weakest-link constraints that control life-safety outcomes. This “partial-route” method understates risk and fails to apply the controlling standards to the route as traveled by evacuees and emergency apparatus.

Cross-reference: A full analysis of High Valley Road’s deficiencies and their cumulative impact on evacuation capacity appears in **Cumulative Effects § C, “Failure to Perform Cumulative Analysis: Project-Level and Program-Level,”** and **§ D, “Substantial Evidence of Roadway Hazards on High Valley Road.”**

Conclusion: Omitting § 4290 review of the full off-site approach is a material failure under CEQA and the Fire Safe Regulations. A project-level EIR is required to evaluate the **entire** access route for § 4290 compliance. [C1]

2. On-Site Access Road at Poverty Flats (Project Segment)

Principle: The on-site access must independently satisfy § 4290/SMFSR minimums for width, turning radius, grade, and all-weather load capacity: 20-ft two-lane width [C2]; 50-ft minimum inside turning radius [C3]; ≤16% maximum grade [C4]; and an engineered all-weather surface capable of supporting 40,000 lbs. [C5]

Argument: The IS/MND’s own admissions and record evidence demonstrate non-compliance on the project segment:

- **Width:** Required 20 ft (two 10-ft lanes). IS/MND admission: “private driveway... 16 feet in width with an existing 15-ft gate” (p. 12) → below the minimum. [C2]
- **Curve Radius:** Required ≥50-ft inside radius. Finding: Appellant’s survey documents multiple hairpins under 50 ft, on the Poverty Flats site (*See Figure C1.*) [C3]

- **Grade:** Required $\leq 16\%$ maximum. IS/MND admission: slopes “from 0% to over 50%, average 39.5%” (pp. 13, 96). Parcel-viewer slope overlays show grades on the access road exceeding § 4290 limits. [Figure C3] [C4]
- **Surface/Load:** Required all-weather engineered surface supporting 40,000 lbs. IS/MND admission: internal roads “comprised of gravel and natural material” (p. 13), with no load-capacity analysis; the road originated as a fire break rather than an engineered facility. [C5]. Aerial imagery shows access road is not engineered for all weather and does not have an all weather surface but is instead a dirt road [Figure C2].

Cross-reference: Documentary correspondence between CDD and the applicant confirms the permit scope was limited to grading existing firebreaks and un-engineered access roads, and that no complex grading permit and no evidence of an engineered grading plan was provided; see **Grading Chapter 4**

Conclusion: The IS/MND admits that the Poverty Flats access road is too narrow, too steep, and un-engineered for fire safe compliance, yet it still classifies it as a compliant “driveway.” At the same time, the document completely omits any § 4290 analysis of High Valley Road, the primary public route to the site. These combined failures render the safety analysis incomplete and misleading under CEQA. An EIR is required to evaluate both the internal access road and High Valley Road for compliance with § 4290 standards.

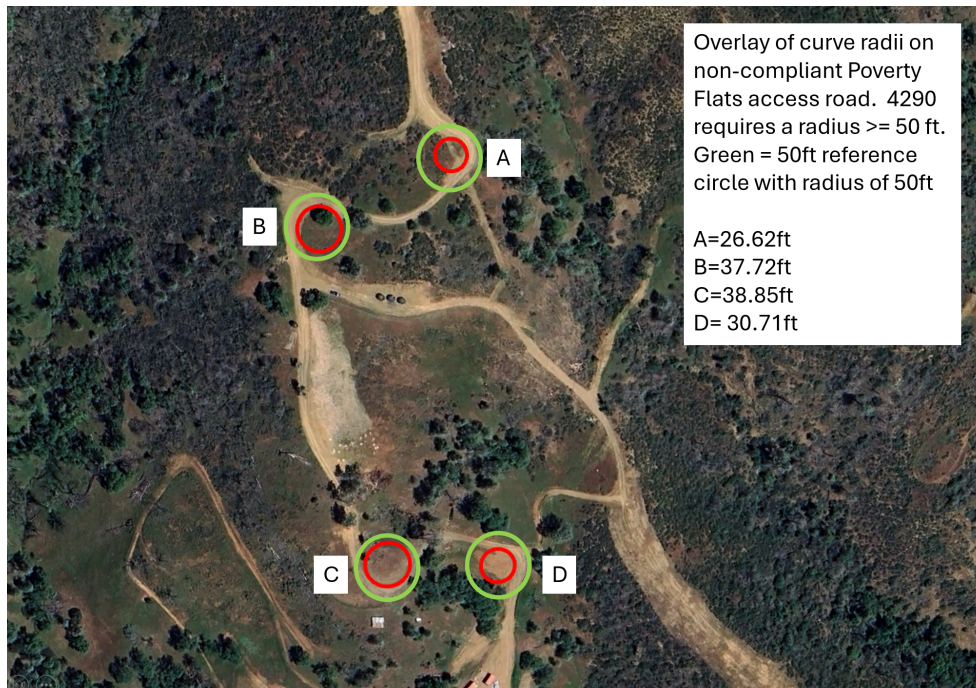


Figure C2: Aerial Imagery of non-compliant access roads with curves below the minimum radius allowed by 4290.

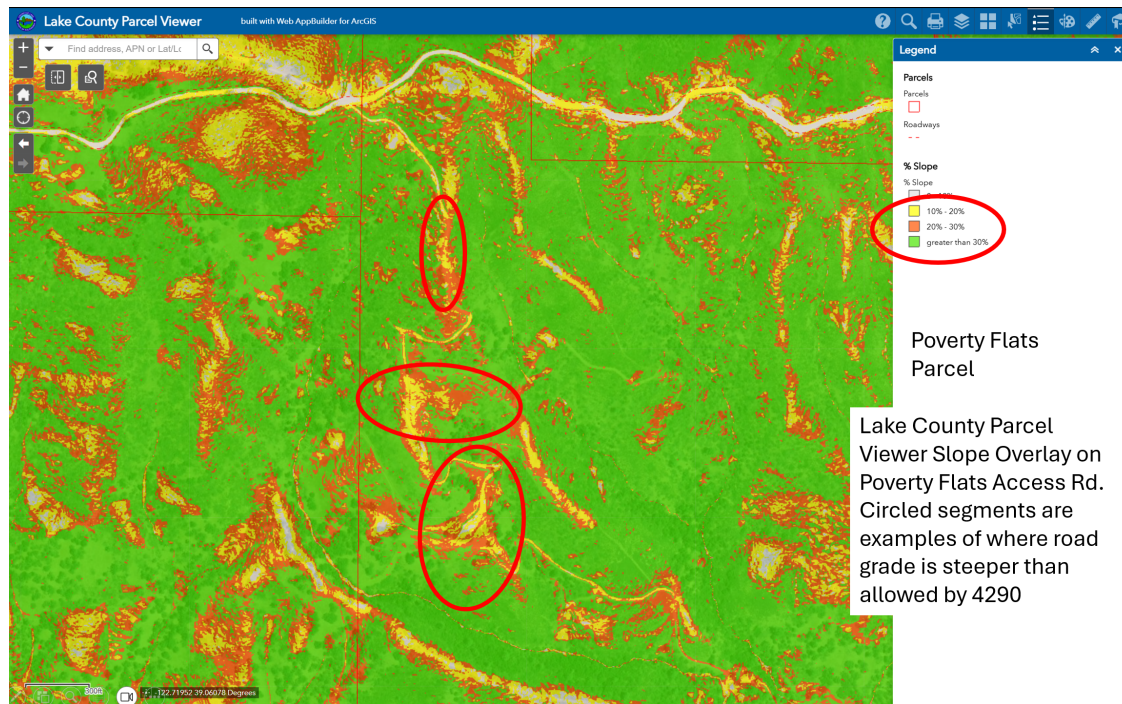


Figure C3: Lake County Parcel Viewer Slope Overlay on Poverty Flats Access Road showing areas where access road slope exceeds the 16% allowed by 4290 SMFSR

Footnotes for Section C

- [C1] Pub. Res. Code § 4290; CEQA Guidelines § 15126.2(a); *League to Save Lake Tahoe v. County of Placer* (2022) 85 Cal.App.5th 63, 119.
- [C2] 14 CCR § 1273.01(a) (roads: two 10-ft lanes = 20-ft minimum); IS/MND (April 2025), p. 12 (access 16 ft. width, 15-ft gate).
- [C3] 14 CCR § 1273.04(a) (minimum inside turning radius: 50 ft).
- [C4] 14 CCR § 1273.03(a) (maximum grade: 16%); IS/MND (April 2025), pp. 13, 96 (slopes 0–50%, avg. 39.5%).
- [C5] 14 CCR § 1273.01(c) (all-weather surface supporting 40,000 lbs); IS/MND (April 2025), p. 13 (roads “comprised of gravel and natural material”).
- [C6] Planning Commission hearing for Major Use Permit UP 21-07 on Little High Valley Road. The hearing was dated December 12, 2024. At timestamp 1:18:45, Community Development Department Planner Ms. Claybon stated to the Planning Commission: “PRC Codes 4290 and 4291 apply to interior roadway improvements

on the project parcel themselves. So, with that being said, this would only require interior roadway improvements on the project parcel”

<https://www.youtube.com/watch?v=70y5tM3sbkl>

- [C7] Planning Commission hearing for Major Use Permit UP 21-07 on Little High Valley Road. dated March 22, 2025. At timestamp 00:21:48, Community Development Department Planner Ms. Claybon stated to the Planning Commission in response to the statement from Commissioner Zoller “*..that the road is not wide enough to meet California Fire Codes: “ Claybon: “...I can respond to this question: Historically we have applied 4290/4291 requirements to project Parcels themselves for interior roadway improvements...”*

<https://www.youtube.com/watch?v=9e5WDKD5yQM>

D. Strategic Ridgeline Function of High Valley Road

Principle: *Undeveloped Strategic Ridgelines* provide critical wildfire defense infrastructure. Under 14 CCR § 1273.07, no road or driveway may be located on such ridgelines unless a finding is made that it is necessary for access and fire safety, which requires formal study and justification [D1]. CEQA likewise requires agencies to analyze reasonably foreseeable hazards where new development compromises existing fire defense strategies [D2].

Argument:

1. IS/MND Admission of Fire Hazard Context.
 - The IS/MND acknowledges that the Poverty Flats site is located within a Very High Fire Hazard Severity Zone and that the property was fully burned during the 2018 Ranch Fire (pp. 13, 33)
 - Despite this admission, the IS/MND contains no analysis of how placing commercial development on or adjacent to the High Valley ridgeline will interfere with its historic role as a fire defense line.
2. Historic Role of the Ridgeline in Fire Defense.
 - **High Valley ridgeline = strategic fuel-break corridor.** The High Valley ridgeline (High Valley Road corridor) has long served as a strategic fuel break protecting Northshore communities. The County’s original CWPP (developed 2008–09) formally designated “High Valley Road — Shaded Fuelbreak (Priority 1)” and the connecting “High Glade Lookout to High Valley — Fuelbreak (Priority 1)”, establishing the corridor as part of the County’s ridgeline fuel-break strategy. [D6] The 2023 CWPP update (updated April

2025) retains and elevates this treatment, listing “High Valley Road — Shaded Fuel Break (Priority 1, Post-Fire)” in Appendix A—underscoring its continued strategic importance for community protection and responder access. [D7]

- Firefighters successfully used this ridgeline during the Mendocino Complex Fire (2018), the Forks Fire(1996), and the Glenhaven Fire (2024) to stage back burns, conduct aerial retardant drops, and prevent downhill spread into populated areas.(Figures D1, D2, D3)
- This defensive value depended on the ridgeline being undeveloped, allowing fire suppression to proceed without risk of destroying structures or endangering occupants.[D8]

3. New Development Creates Evacuation and Suppression Conflicts.

- With the introduction of commercial cannabis operations and structures within 1,000 feet of the ridgeline on slopes exceeding 70%, responders will no longer be able to treat the ridge as a pure defensive zone. Back burns, control burns and aerial drops become more problematic, dangerous and sometimes no longer possible in developed areas.
- They will be obligated to check and defend Poverty Flats itself, requiring travel down its noncompliant, steep access road to confirm no personnel are at risk.
- This obligation diverts responders from broader containment operations and places them in danger on substandard roads.

Conclusion: The IS/MND admits that Poverty Flats is in a Very High Fire Hazard Severity Zone and has already burned in a major wildfire. Yet it contains no study of how development compromises the ridgeline’s historic function in defending the community during the Ranch, Forks, and Glen Haven fires. CEQA and § 1273.07 require such an evaluation, and its absence is a prejudicial abuse of discretion. An EIR is required to analyze how developing an undeveloped strategic ridgeline alters both evacuation safety and fire suppression strategy.

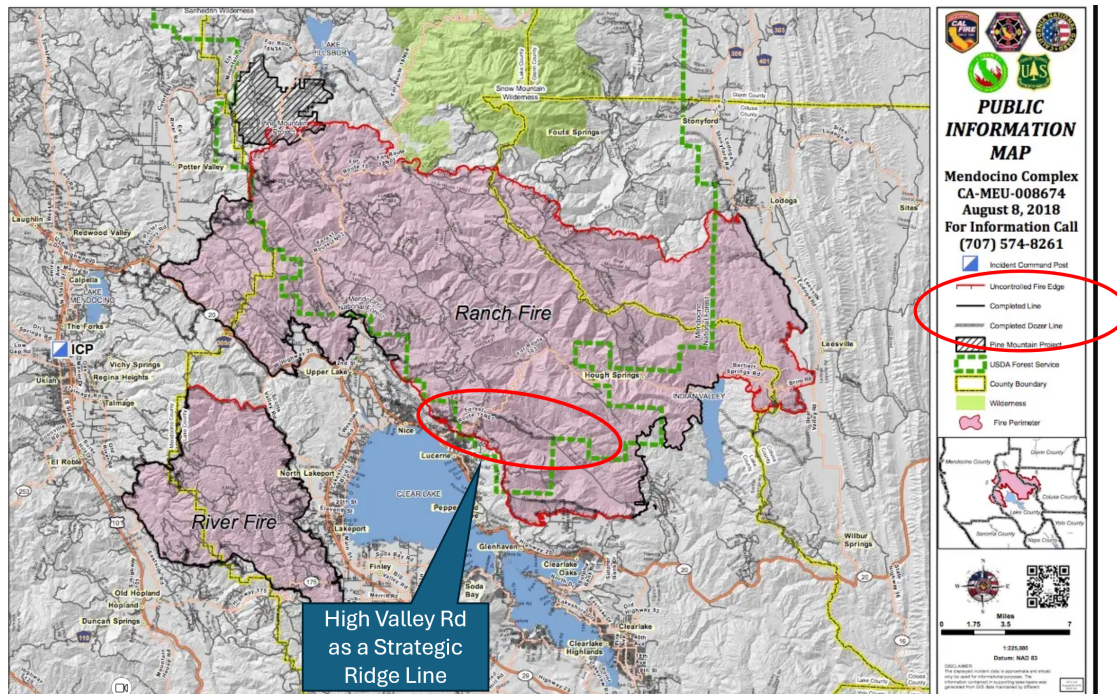


Figure D1: Public Information Incident Map showing High Valley Road as a Strategic Ridge Line.



Figure D2: Photo of High Valley Road depicting its strategic importance in wildfire protection. [D5]



Figure D3: CalFire Operations Chief Charlie Blankenheim during the update of the Mendocino Complex Fire describing the fire fighting activity along High Valley Rd. ~Aug. 6, 2018. Update included extensive aerial drops along High Valley Rd. which was undeveloped during this period. (timestamp: 2:38 to 3:21 and 5:02 to 5:44)[D9]



Figure D4: Firefighters creating backburn area by launching incendiary flares, grenades and torching brush downslope from High Valley Road defensive ridge line.[D10]

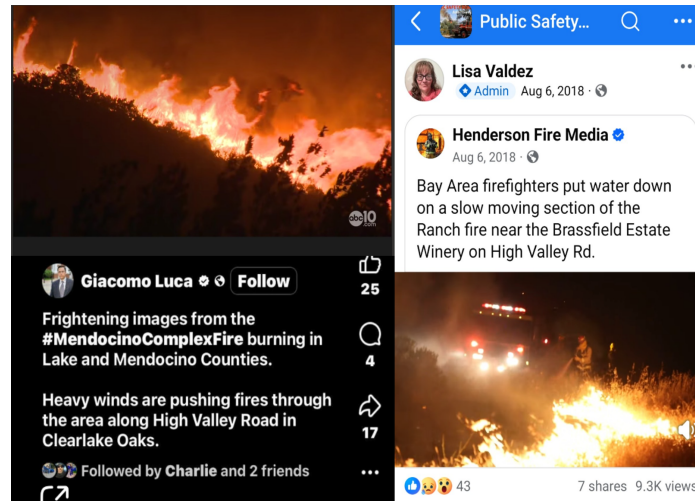


Figure D5: Facebook Posts of Ranch Fire on High Valley Rd.

Footnotes for Section D

- [D1] 14 CCR § 1273.07 (undeveloped strategic ridgelines require study and findings of necessity).
- [D2] CEQA Guidelines § 15126.2(a) (analysis of hazards required); *League to Save Lake Tahoe v. County of Placer* (2022) 85 Cal.App.5th 63, 119.
- [D3] IS/MND (April 2025), pp. 13, 33 (Very High Fire Hazard Severity Zone; Ranch Fire 2018).
- [D4] Historical use of the High Valley ridgeline as a fire defense line documented during the Mendocino Complex Fire (2018), Forks Fire, and Glen Haven Fire.
- [D5] “High Valley Road above Clearlake Oaks dissects the Ranch fire burn scar of the Mendocino Complex in the Mendocino National Forest, Thursday, Dec. 13, 2018”. (Kent Porter / The Press Democrat) 2018
- [D6] Lake County Community Wildfire Protection Plan (2009), Chapter 8 – Action Plan, p. 8-24 (lists “Lucerne — High Valley Road — Shaded Fuelbreak — Priority 1”), and p. 8-25 (lists “Upper Lake/Nice/Lucerne/Glenhaven/Clearlake Oaks — High Glade Lookout to High Valley — Fuelbreak — Priority 1”).
- [D7] Lake County Community Wildfire Protection Plan (September 2023; updated April 2025), Appendix A – Fuel-Reduction & Prevention Priorities, p. 54 of 80, Row 90 (“Lucerne — High Valley Road — Shaded Fuel Break — Priority 1 (Post-Fire)”). See also County CWPP landing page noting the April 2025 update.

- [D8] Lake County Community Wildfire Protection Plan (2009) p5-2, “A shaded fuelbreak, along with prescribed fire, has been proposed along High Valley Road. These projects are proposed in order to treat vegetative fuels and reduce the risk of catastrophic wildfires.”
- [D9] CalFire Update Report August 6, 2018
<https://www.facebook.com/CALFIREMEU/videos/1676241219140180/?mibextid=9drbnH&s=yWDuG2&fs=e>
- [D10] <https://www.youtube.com/watch?v=9epvPGZzUOo&t=90s>

E. High Valley Road Functions as a Prohibited Dead-End Road

Principle: Under the State Minimum Fire Safe Regulations, dead-end roads are subject to strict length limits because they present severe risks for emergency evacuation and responder ingress. For commercial uses, no dead-end road may exceed **1 mile** in length [E1]. High Valley Road, while not technically a dead end in ordinary conditions, functions as one during wildfire emergencies due to federal land management practices. When locked gates block the route, it becomes an extended 6-mile dead end, in clear violation of § 4290 standards.

Argument:

1. Regulatory Prohibition on Dead-End Roads.

- 14 CCR § 1273.08(a): Dead-end roads shall not exceed 1 mile in length for commercial or industrial occupancies.
- This requirement exists to ensure rapid evacuation and safe ingress for emergency vehicles.

2. High Valley Road’s Functional Status as a Dead-End.

- High Valley Road begins at California Highway 20, traverses BLM and USFS lands, and ultimately reconnects to Bartlett Springs Road and back to Highway 20 — approximately 12 miles in total.
- However, during wildfire emergencies, the USFS routinely closes and locks gates across High Valley Road to prevent public access into active fire areas.
- These closures often last for months or years until the agency deems the corridor safe. [Figure E1].

- During these periods, High Valley Road functions as a dead-end road of approximately 6 miles in length — six times longer than the maximum allowed under § 4290.[E2]

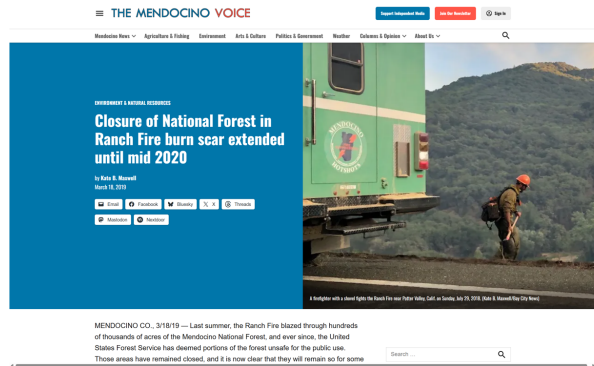
3. **Life Safety Implications.**

- When High Valley Road becomes a de facto dead end, it strands workers, residents, and visitors at Poverty Flats and other properties behind the gate.
- Responders are forced to share the same narrow route with evacuating vehicles, creating foreseeable blockages and delays.
- The risk is not speculative. Past wildfire events in Lake County — including the **Mendocino Complex Fire**, the **Forks Fire**, and the **Glen Haven Fire** — have demonstrated the critical importance of High Valley Road as a strategic evacuation and containment line. With gates locked and development present, these operations would be severely compromised.[E3]

4. **IS/MND's Failure to Disclose or Analyze.**

- The IS/MND for Poverty Flats makes no mention of the dead-end prohibition, the USFS gate closures, or the resulting 6-mile effective dead end.
- By ignoring this regulatory constraint and its consequences for evacuation safety, the IS/MND fails to proceed in the manner required by law.

Conclusion: High Valley Road violates § 4290's dead-end road standard whenever USFS gates are locked during wildfire conditions. Its functional status as a 6-mile dead end presents a foreseeable, life-threatening hazard that CEQA requires to be disclosed and analyzed. The IS/MND's silence on this issue is a prejudicial abuse of discretion. An EIR is required to evaluate and mitigate the risk.



MENDOCINO CO., 3/18/19 — Last summer, the Ranch Fire blazed through hundreds of thousands of acres of the Mendocino National Forest, and ever since, the United States Forest Service has deemed portions of the forest unsafe for the public use. Those areas have remained closed, and it is now clear that they will remain so for some time.

On March 14, the Forest Service announced that certain parts of the forest will remain closed until July 1, 2020, as crews undertake what is described as an “immense” amount of work, including repairing trails and damage from flooding, as well as “hazard tree management work,” which was delayed due to the wet winter, according to Forest Supervisor Ann Carlton.

Here's the full press release from the U.S.F.S.:

WILLOWS, Calif. — March 14, 2019 — Mendocino National Forest officials are issuing a new Forest Order for the Ranch Fire area and locking gates to enforce the area closure. Forest Order No. 08-19-01 is effective from March 13, 2019 until July 1, 2020.

The amount of work that needs to be done before the fire area is reasonably safe to open is immense. Forest Supervisor Ann Carlton explains, “This wet winter is delaying our efforts to begin the hazard tree management work needed to provide a safe transportation system in the fire area. We appreciate your patience while we continue the recovery and restoration process.”

Post-fire threats for the public, residents of private lands & agency personnel include flooding, debris flows, hazard trees and loss of ingress and egress along roads, trails, recreation areas, and facilities.

While the large Ranch Fire area remains closed, there are over 600,000 acres of the Forest for people to explore when summer arrives. Campgrounds in the northern portion of the Forest generally open around Memorial Day weekend.

The maximum possible penalty for a violation is up to a \$5,000 fine, six months incarceration or both. Forest Order No. 08-19-01 supersedes Order No. 08-18-17 dated November 22, 2018. The order and maps are here: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd613899.pdf March 14, 2019 press release from the U.S. Forest Service

Figure E1: Extended Closure of the USFS roads including High Valley Rd. Note: Fire occurred in August of 2018. Source: Mendocino Voice 3/18/19.

Footnotes for Section E

- [E1] 14 CCR § 1273.08(a) (dead-end road length: maximum 1 mile for commercial/industrial occupancies).
- [E2] U.S. Forest Service closure practices on High Valley Road, documented during wildfire events (2015–2025).
- [E3] Lake County wildfire history: Mendocino Complex Fire (2018), Forks Fire (2020), Glen Haven Fire (2022).

F. Failure to Conduct Evacuation Analysis as a § 4290 Fire-Safety Requirement

Principle. The State Minimum Fire Safe Regulations (§ 4290) exist to ensure civilian evacuation and emergency responder ingress under wildfire conditions. CEQA requires a good-faith, fact-based analysis of such life-safety risks and feasible measures to avoid or substantially lessen them before project approval. A lead agency may not approve a project on a Mitigated Negative Declaration where substantial evidence indicates significant evacuation hazards; it must either (a) require feasible changes that actually make the route suitable for the intended use, or (b) prepare an EIR (with findings under Guidelines § 15091

/ PRC § 21081). “Future study” or conclusory promises of later compliance do not satisfy CEQA. [F1][F2][F4][F5][F6][F7]

Argument.

(1) “No impact” without evacuation analysis. The IS/MND relies on a VMT screen (~12 trips/day and a 110 trips/day threshold) to avoid any transportation analysis, and then asserts emergency access/evacuation will be less than significant—without route-specific evacuation modeling (no clearance times, queues/bottlenecks, or responder-ingress conflict analysis). A daily-trip screen is not an evacuation study and cannot substitute for one under CEQA. [F3]

- **Evacuation orders enforced with risk of arrest.** Evacuation orders are enforced under Penal Code §409.5 and can legally prevent residents from traveling beyond their property lines, further undermining the IS/MND’s “no-impact” finding. California Penal Code §409.5 authorizes law enforcement and fire officials to close disaster areas and evacuation zones, making it a misdemeanor to enter or remain in those closed areas after being told to leave. During the 2018 Mendocino Complex Fire, officials publicly emphasized active patrols and arrests within evacuation zones, reflecting how these closures are actually implemented during large incidents [F9][F10].[Figure 1]
- **High Valley Road precedent.** Resident testimony describing the evacuation situation during the Mendocino Complex show that residents on High Valley Road were ordered to shelter in place and warned they could be arrested if they attempted to evacuate while the corridor was being used for incoming apparatus and active containment. This demonstrates that in real fire conditions, the route may be unavailable to evacuees by operation of law, not just by physical constraint, and that egress can be prohibited precisely when needed most.
- Resident letter from High Valley Road resident describing being denied evacuation and threatened with arrest during the Mendocino Complex Fire.[F11]
- Implication for CEQA. An evacuation analysis that ignores (a) lawful closure authority, (b) historical enforcement on this very corridor, and (c) the resulting conflict between responder ingress and civilian egress, does not satisfy § 15126.2’s requirement to analyze reasonably foreseeable hazards. At minimum, the County must evaluate scenarios where High Valley Road is closed or restricted under §409.5 during an incident—mirroring actual practice in 2018—and quantify clearance times and operational conflicts under those conditions. See also Fire Safety §E (dead-end behavior during closures).

(2) Already-hazardous route must be corrected, not waived. CEQA's low fair-argument threshold requires an EIR where credible evidence shows significant evacuation risk; agencies cannot defeat that obligation with conclusory statements or by pointing to later compliance. Where the route is already unsafe/non-compliant, CEQA requires feasible measures that make it suitable before operation—or an EIR with lawful findings.

[F2][F5][F6][F7]

(3) What a § 4290-aligned evacuation analysis must contain (but is missing). A good-faith analysis would:

- Quantify clearance time for the whole traveled route (site public road network), including gate width, narrow/two-way segments, and bottleneck/queue formation. [F1][F4][F8]
- Identify responder-ingress vs. evacuee-egress conflicts and loss-time on constrained segments; test operational measures (managed one-way egress, staging, contraflow feasibility, traffic-control staffing) and sensitivity to wind, smoke visibility, ignition timing, and partial closures. [F1][F4][F8]
- Use actual geometric/operational constraints as inputs—on-site width/grade/curve/surface, strategic ridgeline function, and dead-end behavior during closures. [F1]

Conclusion. Because the IS/MND presents no route-specific evacuation modeling and relies on a VMT screen in lieu of a § 4290-purpose analysis, its “no-impact” conclusion is unsupported. CEQA requires an EIR (or enforceable, feasible measures that demonstrably achieve evacuation adequacy for the entire route) before approval.

[F1][F2][F3][F4][F5][F6][F7][F8]

LOCAL NEWS

Latest evac orders, shelter info, resources for Mendocino Complex Fire, Hopland Fire



Firefighters battle the Mendocino Complex Fire on July 31 in Lake County. The complex consists of two fires: the River Fire and the Ranch Fire. (Chris Pugh — Ukiah Daily Journal)



By THE UKIAH DAILY JOURNAL | udj@ukiahdj.com
UPDATED: August 23, 2018 at 12:00 AM PDT

Here is a roundup of the latest evacuation orders, which we will update in real time with new information. You can also follow updates on our [Facebook page](#).

CURRENT EVACUATIONS:

August 2

-Mandatory Evacuation for Long Valley, High Valley and Spring Valley in Lake County. Leave immediately.

-Mandatory for Western Lake County, West of Lucerne at Bartlett Springs Road and Highway CA-20. South of the fire, east of the fire, north of the Clear Lake, including Blue Lakes, Upper Lake, Nice, Lakeport, Witter Springs, Bachelor Valley, Scotts Valley, Saratoga Springs.

-Mandatory for Bartlett Springs Road, north to Twin Valley Road in the Mendocino National Forest, and east to the western border of the High Valley Ranch. Extending east to the western side of Indian Valley Reservoir.

-Mandatory for Highway 20 area from one mile south of Highway 20, south of McWhinney Creek, east of Potter Valley Road and west of the Mendocino, Lake County line.

-Warning for Midmountain Road region. North of 10551 Eastside Potter Valley Road, east of Eastside Potter Valley Road, west of the Mendocino, Lake county lines, and south of 11385 Eastside Potter Valley Road.

A reminder to residents that police are actively patrolling the evacuation zones. Anyone found outside of their property lines who have refused to evacuate can be arrested for a misdemeanor.

Figure F1: Ukiah Daily Journal Article noting mandatory evacuation of High Valley and the threat of arrest. Note: several residents were unable to evacuate and ordered to shelter in place due to High Valley Rd. inability to support simultaneous ingress and egress as required by 4290 and then threatened with arrest if they tried to leave.

Footnotes for Section F

- [F1] CEQA Guidelines Appendix G (Transportation & Wildfire prompts on emergency response/evacuation; hazards must be analyzed), and Guidelines § 15126.2(a) (EIR must identify and analyze significant environmental effects, including hazards/safety).
- [F2] Golden Door Properties, LLC v. County of San Diego (2020) 50 Cal.App.5th 467 (mitigation must be enforceable, not deferred; agency may not rely on unenforceable performance standards or future study to claim impacts are less than significant).
- [F3] Initial Study/Mitigated Negative Declaration (redlined, Apr. 25, 2025) — Transportation XVII(b) (VMT 110-trip screen) & XVII(e) (emergency access/“safe evacuation” assertions), no evacuation modeling (clearance time, queues, conflicts).

- [F4] *League to Save Lake Tahoe v. County of Placer* (2022) 85 Cal.App.5th 63 (evacuation impacts are a CEQA issue requiring analysis; court scrutinized evacuation methodology and upheld/required revisions accordingly).
- [F5] *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68 (if substantial evidence supports a fair argument of significant impact, an EIR is required; low threshold, resolve doubts in favor of environmental review); see also *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903 (public/commission testimony can constitute substantial evidence; MND improper where fair argument exists).
- [F6] *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 306 (improper to adopt an MND that defers mitigation to future study; mitigation must be specified/enforceable before approval).
- [F7] CEQA Guidelines § 15091 / PRC § 21081 (agency may not approve a project with significant effects unless it makes required feasibility findings—changes have been required/incorporated to avoid or substantially lessen the effect, or lawful override).
- [F8] California Attorney General, Wildfire CEQA Guidance (Oct. 10, 2022) (best practices for analyzing/mitigating wildfire evacuation risk; urges route-specific modeling and avoidance of conclusory findings).
- [F9] Cal. Penal Code §409.5 (FindLaw: statute text—closure authority; misdemeanor for unauthorized entry/remaining in a closed disaster area).
- [F10]
 - “Mendocino Complex: General incident and Community Information for Aug. 8”, Lake County News Aug 8, 2018. “...Anyone who remains in the areas under mandatory evacuation orders must remain on their property. Any unauthorized person who willfully and knowingly enters a disaster area and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor...”
 - “Latest evac orders, shelter info, resources for Mendocino Complex Fire, Hopland Fire”, Ukiah Daily Journal August 28, 2023. “A reminder to residents that police are actively patrolling the evacuation zones. Anyone found outside of their property lines who have refused to evacuate can be arrested for a misdemeanor.”
- [F11] Letter submitted by resident forced to shelter in place because High Valley Road could not support simultaneous ingress and egress

G. Legal Risk from Knowingly Ignoring § 4290

Principle. Once an agency is on notice that the State Minimum Fire Safe Regulations (§ 4290) apply to the entire traveled route, it may not lawfully approve a project on an MND while omitting or misstating that route’s noncompliance. CEQA requires a good-faith, fact-based analysis of life-safety hazards and feasible measures to avoid or substantially lessen them before approval; an agency cannot substitute future study or conclusory assurances. Approving operations without safe ingress and egress also exposes the County to civil liability risk where conduct rises to gross negligence or willful misconduct. [G1]

Argument.

- **CDD’s prior notice and continuing disregard .** This appeal is not the first time the County—and specifically CDD—has been put on notice about the dangerous, non-compliant condition of the High Valley Road corridor and the on-site approach. As detailed in Cumulative Effects §§ D–E (hazard evidence and testimony) and § H (hearing record), the County received repeated notice years before this filing—e.g., the CHP memorandum (2021), the Sourz HVR proceedings (2021), Monte Cristo hearing (2022) and the Liu Farms Planning Commission hearing (2024). Despite that notice, CDD continued to confine § 4290 review to on-site segments, ignore whole-route hazards, and rely on the invented “commercial driveway” template and conclusory “no-impact” findings without evacuation modeling. In short, it is CDD that has been on notice, and it is CDD’s continued approach that puts the County at risk by perpetuating a known life-safety hazard rather than remedying it. [G3]
- **Misstatements and omissions in the IS/MND.** The IS/MND (a) re-labels the access as a “commercial driveway” and relies on WDF-1 to claim compliance, and (b) issues “no significant impact” findings for wildfire evacuation/emergency access without route-specific evacuation modeling—substituting a VMT screen instead. These are material defects, not harmless errors. [G2] (*See also Fire Safety § B (misclassification) and Fire Safety § G (evacuation analysis).*)
- **Resulting legal exposure.**
 - **CEQA litigation risk** — Where substantial evidence supports a fair argument of significant hazard, an EIR is required; misstatements/omissions that conceal access constraints are prejudicial and invalidate an MND. [J1][B8]
 - **Civil liability risk** — Proceeding despite notice of § 4290 noncompliance heightens exposure if evacuation failure causes loss; no immunity for gross negligence or willful misconduct. [G1]

Conclusion. Given CDD’s prior notice (since at least 2021) and its continuing disregard of whole-route § 4290 compliance, approving Poverty Flats on an MND would be a knowing approval of operations without demonstrated safe ingress/egress. CEQA does not permit reliance on a VMT screen or future compliance in lieu of a route-specific evacuation analysis and enforceable measures that make the entire traveled route suitable for the intended use. [G1][G2][G3]

Accordingly, the County must either (a) require now—as a condition of approval—feasible, enforceable measures that demonstrably achieve § 4290 adequacy for the whole route (with a route-specific evacuation study to verify performance), or (b) prepare an EIR and make legally sufficient feasibility findings. Proceeding on the current record risks CEQA invalidation of the MND and an order to prepare an EIR, and it exposes the County to civil liability should harm occur under known non-compliant conditions. [H1][B8][G1]

Cross-references: For program-level risk tied to VMT misuse and other deficiencies and hazards on High Valley Rd., see Chapter Road Safety § B an C.

Footnotes for Section G

- [G1] PRC § 4290; CEQA Guidelines § 15126.2(a), § 15126.4(a)(2); *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747, 754 (no immunity for gross negligence or willful misconduct).
- [G2] IS/MND (April 2025), pp. 12–13 (access described as 16 ft, gravel/natural material); p. 73 (Mitigation Measure WDF-1, “commercial driveway” requirement); pp. 71–74, 92–95 (“less than significant”/“no impact” wildfire findings).
- [G3] Public testimony and CHP comments (2024–2025) placing the County on notice of High Valley Road deficiencies.

H. Remedy Required

Principle. CEQA prohibits adoption of a Mitigated Negative Declaration where substantial evidence supports a fair argument that a project may cause a significant effect; in that circumstance an EIR is required. Life-safety issues—fire access, evacuation feasibility, and responder ingress—must be analyzed with good-faith, fact-based methods before approval; the agency may not rely on conclusory statements, later study, or invented compliance categories. [H1]

Argument.

(1) Substantial evidence of § 4290 noncompliance (from §§ A–F of this chapter).

- Whole-route analysis omitted: § 4290 was confined to on-site segments; the full traveled route to the public network was not analyzed.
- No evacuation analysis: No route-specific modeling of clearance times, bottlenecks/queues, or responder-ingress conflicts.
- Strategic ridgeline not analyzed: Development on the High Valley ridgeline alters suppression strategy.
- Dead-end condition: Corridor functions as a prohibited dead end during closures.
- On-site geometry deficiencies: Substandard width, grade, curve radius, and surface/load.
- Misclassification: IS/MND's invented "commercial driveway" category masks mandatory road standards.
- Document text errors: IS/MND relies on WDF-1 and declares "less than significant" for wildfire evacuation/emergency access without evacuation modeling; VMT screen used in lieu of safety analysis. [H2]

(2) Why these are prejudicial, not harmless.

The errors and omissions conceal a life-safety deficiency from decisionmakers and the public. CEQA does not permit an MND when the record shows whole-route § 4290 noncompliance and absent evacuation analysis; those defects trigger the EIR requirement under the low fair-argument threshold. [H1][H3]

Remedy.

Because the record establishes a fair argument of significant fire-safety impacts, the County must prepare an EIR. At minimum, that EIR must:

1. Perform a route-specific evacuation analysis for the entire traveled route (site → public road network), quantifying clearance time, queues, and responder-ingress/evacuee-egress conflicts under realistic fire scenarios (Fire Safety § G).
2. Apply and document § 4290 compliance along the whole route, not just on-site, using the correct road classification (not "commercial driveway") and demonstrating compliance with width (20 ft two lanes), surface/load (40,000 lbs), grade ($\leq 16\%$), curve radius (≥ 50 ft), and turnouts as supplemental (Fire Safety §§ B, C).
3. Address the strategic ridgeline function and dead-end behavior during closures, with enforceable measures where needed (Fire Safety §§ D, E).

4. Replace conclusory reliance on WDF-1 with enforceable, feasible mitigation tied to performance outcomes (e.g., geometry upgrades, gate retrofits/second egress where applicable, traffic control/operational plans) and a monitoring & trigger program to ensure maintained compliance over time (Fire Safety §§ B, C, G).
5. If substantial design or operational changes are needed, recirculate consistent with CEQA.

Conclusion. Substantial evidence shows that Poverty Flats’ access system, as described, fails § 4290’s life-safety purpose and lacks a route-specific evacuation analysis. The IS/MND’s misstatements and omissions preclude adoption of a negative declaration. An EIR is required to fully evaluate, disclose, and mitigate these risks before any approval.

Footnotes for Section H

- [H1] Pub. Res. Code § 21080(d); CEQA Guidelines § 15064(f)(1) (fair-argument standard: EIR required where substantial evidence supports a fair argument of significant effect).
- [H2] IS/MND (Apr. 2025), pp. 12–13 (on-site access described as gravel/natural; 16-ft width; 15-ft gate); p. 73 (Mitigation Measure WDF-1, “commercial driveway”); pp. 71–74, 92–95 (“less than significant” for wildfire/emergency access).
- [H3] *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 654–655 (misstatements/omissions in CEQA documents are prejudicial and invalidate findings).