

**Opinion No. 16-1786**

April 28, 1916

**BY:** H. S. CLANCY, Assistant Attorney General

**TO:** Mr. W. P. Luhemon, Taft, New Mexico.

**Public highway as defined by law. A gate is an obstruction to a road. Roads on section lines.**

**OPINION**

{\*358} In reply to your letter of the 26th instant, I have to say that a public highway in New Mexico is defined by Section 2626 of the Codification of 1915, as follows:

"All roads and highways, except private roads, established in pursuance of any law of New Mexico, and roads dedicated to public use, that have not been vacated or abandoned, and such other roads as are recognized and maintained by the corporate authorities of any county in New Mexico, are hereby declared to be public highways."

By Section 2628 all roads over which mails of the United States are carried are declared to be public roads and open to the people of the state. Section 2698 makes it unlawful to in any manner obstruct any public road, and there is no question but that a gate is an obstruction to a road. The fact that there is a road on a section line makes it no different from any other road, unless the county commissioners, under the power conferred upon them by Section 2653, have declared all section lines public highways, but so far as I am informed, the only county in the state which has made such a declaration is Luna.