

February 13, 2015 Email/Letter

Rene Ford, Minutes Taker
HETC's Monday, February 9, 2015, Meeting
Hugo Emigrants Trails Committee
Hugo Neighborhood Association & Historical Society

Reference: Recommended selected minutes for the HETC's Monday, February 9, 2015, Meeting.

Rene:

I provide the following recommended minutes for the HETC's Monday, February 9, 2015, meeting. Per our earlier discussion I have not yet received the draft minutes as of this a.m.

Minority Report. Per the HETC's agreement, I would provide a minority opinion for the HETC's vote on Monday, February 9, 2015, for the agenda item "*Verify that Vannoy Crossing of the Rogue River and the IV Road North of the Rogue River was an alternate route of Applegate Trail, or not.*" It is an opinion for the inventory decision to eliminate the possibility that parts of the IV Road were an alternate route of the Applegate Trail (Appendix A).

I also provide recommended discussion paragraphs (potential issues numbers 1 - 3) for the minutes of the discussion of the agenda item before the vote (Appendix B).

Have a great day!

Sincerely,

Mike :)

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Appendix A. Minority Report In this case the minority report (i.e., dissenting opinion or dissent) is an opinion written by one member of the HETC expressing disagreement with the majority opinion of the HETC on the level of its inventory and inventory decision. A minority report does not create binding precedent nor does it become a part of the HETC inventory decision. However, it could be cited from time to time when arguing that the HETC's inventory decisions should be limited or overturned. The minority report may disagree with the majority for any number of reasons: a different interpretation of the standards of emigrant trail inventory and decision and their documentation, a different interpretation of the facts, etc. They were written at the same time as the majority opinion and were used to dispute the reasoning behind the majority opinion.

Per the HETC vote on Monday, February 9, 2015, for the agenda item “*Verify that Vannoy Crossing of the Rogue River and the IV Road North of the Rogue River was an alternate route of Applegate Trail, or not,*” Mike Walker, Member of HETC, voted no on the motion that there was only one Applegate Trail route in northern Josephine County, Oregon. The February 9, 2015 oral arguments by Bob Black supplementing his three page analysis paper (i.e., *Applegate Trail Routes & Fords Across the Rogue River*. Analysis Handout by Bob Black at December 1, 2014 HETC's Meeting at Fords) were convincing as to why there were not two routes of the Applegate Trail, only one (i.e., Jacksonville Road of the Applegate Trail). And, this conclusion was in direct conflict with the HETC's application of the MET manual since 2010, and its convincing extensive documented analysis and conclusion that there were two routes.

Approximately a half a decade and hundreds of hours have been expended by the HETC in applying the MET Manual for sites along the IV Road of the Applegate Trail. Six NWOCTA carsonite markers have been located along the IV Road by the HETC after applying the standards of the MET Manual. The MET Manual analysis for the six sites concluded that some of the 1846 emigrants crossed the Rogue River using the Vannoy Ford. This analysis was in agreement with analysis and documentation of the Klamath County Historical Society's Applegate Trail II article (Applegate Trail II: "West of the Cascades" in Klamath Echoes, Number 14, 1976) and the Josephine County Historical Society's documented work on a new Fort Vannoy sign on Lower River Road. On September 11, 2010 Jim Tompkins, President, NW Chapter, OCTA, evaluated a Trail swale on the IV Road to be a definite parallel set of ruts or “Two-track” at IV-7A documented in an educational brochure.

Per the 2005 policy of the *Hugo Neighborhood* and the HETC, the standards for all emigrant trail inventories and decisions would be documentation using the standards of OCTA's *Mapping Emigrant Trails (MET) Manual* to verify Applegate Trail sites (May 14, 2005 *Mapping Action Plan For Applegate Trail Program*). This policy was corroborated March 2012 when the Hugo Applegate Trail Marking & Mapping Project Agreement was finalized and signed by its partners: NWOCTA and OCTA members; Hugo Neighborhood Association and Historical Society (HNAHS or *Hugo Neighborhood*); Hugo Emigrant Trails Committee (HETC or *Trails Committee*; a HNAHS committee); and Josephine County Historical Society (JCHS).

For a emigrant trail segment to be considered as verified, it must conform to OCTA's “Four Cardinal Rules” which is the standard for assessing the degree of probability that the

researcher/mapper located an emigrant trail segment (p. 5, 2002 MET Manual). Inevitably situations will arise when the level of authenticity of a trail segment must be higher than a strict application of the four rules would warrant. In such cases, the researcher-mapper will have to rely on balanced judgment, acquired through experience, to arrive at a final decision. In the best of situations, the trail researcher examines all the relevant written, cartographic, physical, and artifact evidence and finds them mutually supporting. But what does the researcher do when different kinds of evidence conflict? How does one determine the relative reliability of different types of evidence (p. 4, 2002 MET Manual)?

Walker believed it was critical for the *Hugo Neighborhood's* and the HETC's credibility and its NPS signing project for the re-authentication of six NWOCTA carsonite markers already in the ground on the IV Road of the Applegate Trail. He had recommended that the HETC needed to revisit their MET Manual work for the six carsonite sites for accuracy, and the Co-Project Leaders for the 2012 Hugo Applegate Trail Marking & Mapping Project, needed to authenticate the six carsonite marker sites for accuracy. Walker was hopeful that the review under the 2012 agreement would involve the quality control and documented agreement by Henry Pittock, NWOCTA Marking and Mapping Chair.

Walker asked the HETC, "*What level of analysis and documentation is necessary to change previous HECT MET Manual analysis?*" Should a new interpretative emigrant trail inventory decision verified as reliable by a MET Manual analysis require a higher level of proof than the original MET Manual analysis that it is replacing? Absolute certainty would not be required for any MET Manual analysis. However, should other standards be considered for overturning an original MET Manual analysis? How about a standard that the new evidence/MET Manual analysis must demonstrate that no other logical explanation can be derived from the facts except that the original MET Manual interpretive inventory decision is incorrect and the new MET Manual analysis is correct ?

For Walker his "no" vote was simple and straight forward without grey areas. The HETC's decision was not to conduct any addition inventory analysis beyond continuing to accept the *Applegate Trail Routes & Fords Across the Rogue River* paper. For Walker, the credibility and legitimacy of an open thoroughly documented inventory process is equal to the inventory hypothesis. Without a documented MET manual analysis, there is little rationale for the inventory opinion.

For Walker the credibility of oral arguments from an experienced member of the HETC meeting the spirit of the MET Manual does not exist for the purposes of meeting the documentation standards of the MET Manual and the 2012 Hugo Applegate Trail Marking & Mapping Project Agreement for emigrant trail inventories and inventory decisions. The variable memories of persuasive oral arguments to a half dozen individuals have zero value to explain the credibility of emigrant trail inventory analysis and decisions to interested NWOCTA observers, the NPS, and other interested agencies, groups, and individuals. It has limited educational value as an inventory brochure.

Appendix B. Mike Walker’s “Discussion” Minutes For Agenda Item: “Verify that Vannoy Crossing of the Rogue River and the IV Road North of the Rogue River was an alternate route of Applegate Trail, or not,” (HETC’s Monday, February 9, 2015, Meeting)

Agenda Item Per the HETC vote on Monday, February 9, 2015, for the agenda item “Verify that Vannoy Crossing of the Rogue River and the IV Road North of the Rogue River was an alternate route of Applegate Trail, or not,” Mike Walker, Member of HETC, voted no on the motion that there was only one Applegate Trail route in northern Josephine County, Oregon. Walker is recommending the following three discussion sections for the agenda item be added to the minutes.

Discussion Minutes - Potential Issue No. 1. A possible controversy is that Leta Neiderheiser, Primary Contact with the NPS for the HETC and HNAHS, reported to the HETC during a meeting on February 9, 2015 that Article III, Statement of Understanding of the MOU, has an ambiguous statement which follows.

“The Parties agree to pursue a way to complete site preparation and installation of the three exhibits.”

The potential issue and controversy is that the NPS potentially does not have the money in its changing budget to fund all of the project, and that the statement in Article III may be construed to mean that the HNAHS may have future financial obligations in the thousands of dollars. For Walker the word “pursue” does not imply any financial obligation. The HETC, especially Leta Neiderheiser, assured Walker that the HNAHS will not have any future financial obligations, regardless of how the MOU might be interpreted in the future by the NPS and/or Jackson County. Also, Article IV, Term of MOU/Modification/Termination provides a legal exit as the MOU is nonbinding and is not a contract, and can be terminated by any party. Walker trusts Neiderheiser and was comfortable with her “gentleman’s handshake.”

Even so, Walker struggled with the potential future credibility of, in the low probability worst case scenario, that the HNAHS would terminate the MOU and damage its reputation as it did not have the funds that might be required (i.e., why enter into an agreement if there is a probability that it will be terminated?). However, in balance the MOU is an outstanding high probability educational opportunity versus a very low probability for potential issues, while furthering the goals of the HNAHS to share its history as outlined in its 2005 *Mapping Action Plan for the Applegate Trail* approved and signed by its six officers.

Discussion Minutes - Potential Issue No. 2. The second potential issue is also identified in Article III, Statement of Understanding, under HNAHS’s responsibilities.

“21. Watchdog the site and contribute to maintenance, such as cleaning the exhibits and letting the County know about any issues/vandalism.”

Another concern is that the project went from planning, designing, fabricating, and installing interpretive wayside exhibits to planning, development, and implementation of exhibits, when implementation might mean maintenance. For example Walker had concerns about the

accessibility for the HETC to conduct maintenance due to the relatively great distance from the future exhibits at Emigrant Lake County Park near Ashland, Oregon, and the locations of the homes of HETC members. A sub-concern is the idea of “contribute to maintenance” being interpreted in the future to mean financial assistance. This issue was addressed as Potential Issue No. 1 with the potential get-out-of-jail provision of Article IV, especially since Jackson County’s responsibility #13 identified it as the party to “*Provide maintenance of exhibits.*”

Discussion Minutes - Potential Issue No. 3. This issue is identified in Article VII - Reports and/or Deliverables.

“2. HNAHS will provide photographs of installed wayside exhibits and road signs to NPS.”

The final concern for the HNAHS is that the project went from planning, designing, fabricating, and installing interpretive wayside exhibits to projects beyond the actual exhibits. For example, the HETC had concerns about the requirement for the HNAHS to provide road signs to the NPS. This issue was addressed as Potential Issue No. 1 with the potential get-out-of-jail provision of Article IV (i.e., the HNAHS will not be providing any out-of-pocket funds for road signs).