

# Hugo Neighborhood Association & Historical Society

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August 7, 2014

Dennis Griffin, Ph.D., RPA  
SHPO State Archaeologist  
Oregon Heritage Services  
Oregon Parks & Recreation Department  
725 Summer St NE, Suite C  
Salem, OR 97301  
503-986-0674  
[Dennis.Griffin@oregon.gov](mailto:Dennis.Griffin@oregon.gov)



Dear Dennis:

The Hugo Neighborhood Association & Historical Society (HNA&HS), Goal One Coalition, and Rogue Advocates are nonprofit watchdog organizations advocating adherence to state and local land-use laws and promoting learning recorders and training opportunities (e.g., *Effective Land Use Testimony Training*, <http://www.hugoneighborhood.org/training.htm>; etc.). The HNA&HS has an equal interest in its local history.

This is a followup to an issue about archaeological sites, cemeteries listed with the Oregon Commission on Historic Cemeteries, and the Applegate Trail potentially impacted by improvements to Schoolhouse Creek Road in the vicinity of the Pleasant Valley Cemetery, Josephine County, Oregon. In 2012 a Hugo neighbor contacted you about the historic Neely graves, Trimble family graves, and the Applegate Trail (Appendices A & B), and he asks for our assistance. We will identify those interested and affected as the Neely and Trimble Graves Group.

We view this communication as the beginning dialogue in our request for assistance in understanding the issue's applicable laws and regulations. We would like confirmation and clarification that the historic Neely and Trimble family graves are archaeological sites and are listed with the Oregon Commission on Historic Cemeteries. We would also appreciate references to all laws, regulations, and processes that protect and preserve these historic cemeteries (i.e., those that supercede and/or are superceded by local county plans and laws) as well as sanctions for violating these protections. For example, we would like clarification and/or correction to the following statements.

- The historic Neely and Trimble family graves are archaeological sites. Grave sites are considered archaeological sites if they are over 75 years of age and are part of an abandoned or no longer used cemetery.
- The historic Neely and Trimble family graves are listed with the Oregon Commission on Historic Cemeteries.
- Grave sites are protected under state law (ORS 358.920) as well as state burial laws.

- A road over the old cemeteries will not be approved until it is established that the area is truly not a cemetery. Such an investigation will require a professional archaeologist to conduct ground penetrating radar and subsurface excavations to insure that graves are not present and will not be defaced/damaged by the proposed activity.
- These cemeteries fall under state archaeological laws, so any activity (removal) must be approved by the State Historic Preservation Office.
- A person may not excavate or alter an archaeological site on public and private lands, make an exploratory excavation on public lands to determine the presence of an archaeological site, or remove from public and private lands any material of an archaeological, historical, prehistoric or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department. ORS 390.235-390.240  
[http://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors390.html](http://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors390.html)

We are very interested in any processes or steps needed to protect historic cemeteries and/or to relocate the historic Neely and Trimble family graves. For example, has a permit been requested to the Oregon State Parks and Recreation Department for the purpose of relocating the Neely graves and Trimble family graves?

We are also interested in any requirements to protect and preserve the national emigrant Applegate Trail.

- The national emigrant Applegate Trail should be evaluated for its significance prior to any development of the subject lands that trail is located.
- Land actions must be designed to adequately mitigate special conditions such as impacts to the historic and archeological significant Applegate Trail.

As background to our interest in the graves and the Applegate Trail was an August 2008 Oregon Land Use Board (LUBA) appeal of a July 23, 2008 decision of the Josephine County Board of County Commissioners (BCC) approving a subdivision on resource land (Appendix C). The BCC's decision approved a plan for a 16 lot, 88-acre *Pioneer Meadow Subdivision*, along with the extension of Timber Lane, a rural residential road in the county's Woodlot Resource Zone. The extension of Timber Lane was one end of a road loop. The other end of the road loop was the concept that Schoolhouse Creek Road would eventually be approved to meet county road standards. The LUBA appeal process required the research and documentation of facts which resulted in the June 2007 assessment entitled, *Assessment of Proposed Pioneer Meadows Subdivision Containing Applegate Trail Resources* (<http://www.hugoneighborhood.org/AP.htm>). The assessment was co-authored by the Hugo Neighborhood Association & Historical Society, Josephine County Historical Society, Goal One Coalition, Rogue Advocates, and the Oregon-California Trails Association. It included the preliminary assessment of the *Applegate Trail's* eligibility as a historic site listed on the National Register of Historic Places.

We will continue to monitor any potential improvements to Schoolhouse Creek Road for potential impacts to the Neely and Trimble graves and the Applegate Trail as well as the performance of applicable decision making and permitting entities. Specific neighbors will be identified as contacts.

Thank you for any consideration in assisting us to understand applicable standards and criteria to protect and preserve the historic Neely graves and Trimble family graves and the Applegate Trail in the vicinity of the Pleasant Valley Cemetery.

Sincerely,

/s/ Mike Walker

Mike Walker, Education Chair  
Hugo Neighborhood Association & Historical Society

/s/ Mike Walker

Mike Walker, Director  
Rogue Advocates

/s/ Mike Walker

Mike Walker, Director  
Goal One Coalition

## Appendices

- Appendix A. June 14, 2012 Email from Dennis Griffin, SHPO, to Hugo Neighbor
- Appendix B. June 13, 2012 Email from Kuri Gill, Oregon Heritage, to Hugo Neighbor
- Appendix C. Pioneer Meadows Cultural Resource Inventory & LUBA No. 2008-136 *Walker v. Josephine County*

## Email copies:

Kuri Gill, Grants & Outreach Coordinator  
Oregon Commission on Historic Cemeteries  
Oregon Heritage Services  
Oregon Parks & Recreation Department  
725 Summer St. NE, Suite C  
Salem, OR 97301-1266  
503-986-0685  
Email: [Kuri.Gill@oregon.gov](mailto:Kuri.Gill@oregon.gov)  
<http://www.oregon.gov/OPRD/HCD/SHPO/Pages/index.aspx>

Roger Roper, Assistant Director & Deputy SHPO  
Oregon Historic Trails Advisory Council  
Oregon Heritage Services  
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- . Jean Boling, Cemetery Crawler, Josephine County Historical Society
- . Neely and Trimble Graves Group
- . Hugo Graves Team, Hugo Neighborhood Association & Historical Society
- . Hugo Emigrant Trails Committee, Hugo Neighborhood Association & Historical Society
- . Steve Rouse, President, Rogue Advocates

- . Nena Lovinger, President, Goal One Coalition
- . Henry Pittock, Mapping and Marking Chair, NW Chapter of Oregon-California Trails Association

**Appendix A. June 14, 2012 Email from Dennis Griffin, SHPO, to Hugo Neighbor**

From: Dennis Griffin  
 To: kaco12  
 Sent: Thursday, June 14, 2012 9:03 AM  
 Subject: Re: Fw: historic cemeteries

[Hugo Neighbor],

Grave sites are considered archaeological sites if they are over 75 years of age and are part of an abandoned or no longer used cemetery. As such, they are protected under state law (ORS 358.920) as well as state burial laws. The man you mention in your email that wants to build a road over the old cemetery will not be able to do such an activity until he establishes that the area is truly not a cemetery. Such an investigation will require him to hire a professional archaeologist, conduct ground penetrating radar and subsurface excavations to insure that graves are not present and will not be defaced/damaged by the proposed activity. I strongly suggest that he focus his road development plans elsewhere. If you or the proposed developer have any questions about the steps he would need to complete before he could legally complete his project please feel free to contact me at your convenience.

Dennis Griffin, Ph.D., RPA  
 SHPO State Archaeologist  
 (503) 986-0674  
 (503) 986-0793, fax  
 dennis.griffin@state.or.us

**Appendix B. June 13, 2012 Email from Kuri Gill, Oregon Heritage, to Hugo Neighbor**

From: Kuri Gill  
 To: <kaco12  
 Sent: Wednesday, June 13, 2012 10:48 AM  
 Subject: Re: historic cemeteries

Hi [Hugo Neighbor],

Thanks for the information and your concern. Both of these cemeteries are listed with the Oregon Commission on Historic Cemeteries. I will send you signs and a packet of information the listing and how to

protect historic cemeteries. These will be two separate packages.

I recommend you get in touch with Jean Boling who is familiar with cemetery history and law and may be willing to help you. jeanboling@charter.net She works with the Josephine County Historical Society.

Also, these cemeteries fall under state archaeological laws, so any activity (removal) must be approved by the State Historic Preservation Office. You may contact State Archaeologist Dennis Griffin for more information about this. Dennis.Griffin@state.or.us

Please let me know if I can be of further help.

Take care, Kuri

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**Appendix C. Pioneer Meadows Cultural Resource Inventory & LUBA No. 2008-136 Walker v. Josephine County**

Assessment of Proposed Pioneer Meadows Subdivision Containing Applegate Trail Resources  
<http://www.hugoneighborhood.org/AP.htm>

LUBA No. 2008-136 *Walker v. Josephine County*  
<http://www.oregon.gov/LUBA/docs/opinions/2010/01-10/08136.pdf>

Nature of Decision. In August 2008 the petitioners appealed a July 23, 2008 decision of the Josephine County (JO CO) Board of County Commissioners (BCC) approving a subdivision on resource land. This appeal concerns a subdivision that could not be approved under existing land use laws. That subdivision was approved, notwithstanding existing land use laws, based on Ballot Measure 37 (2004) waivers. The decision approving the disputed subdivision was rendered after Ballot Measure 49 took effect on December 6, 2007.

. LUBA No. 2008-136 *Walker v. Josephine County*

. Final Opinion and Order, Reversed 01/14/2010

. Mike Walker, Hal B. Anthony and Wayne McKy, *Petitioners*; Holbert T. Sommer, Intervenor- Petitioner; Mike Walker, Hal B. Anthony, and Wayne McKy, Grants Pass, represented themselves.

On January 14, 2010 the Oregon Land Use Board of Appeals (LUBA) issued an opinion that halted in its tracks a development proposal called Pioneer Meadows, located in the Schoolhouse Creek drainage of northern Josephine County, that carried with it significant potential for cultural, historical and environmental harm. Local neighbors appealed and won the case.

The 88-acre Pioneer Meadows subdivision was proposed in 2006, recommended in 2007 JO CO Rural Planning Commission, and in 2008 approved by the BCC. In August 2008 they appealed the county's decision based on its potential for ecological and cultural harm. Mike Walker, stated, "The purpose of this appeal was to protect and preserve the county's farmlands and forestlands, which are critical to the well-being of our communities." The Pioneer Meadows application would have converted lands currently zoned as woodlot resource to 16 residential lots.

One major concern was that the new subdivision would cut through the Applegate Trail, a historically and archeologically important landmark to Oregonians. The LUBA appeal process required the research and documentation of facts which resulted in the June 2007 assessment entitled, *Assessment of Proposed Pioneer Meadows Subdivision Containing Applegate Trail Resources* (<http://www.hugoneighborhood.org/AP.htm>).

The *Assessment* was co-authored by the Hugo Neighborhood Association & Historical Society, Josephine County Historical Society, Goal One Coalition, Rogue Advocates, and the Oregon-California Trails Association. It included the preliminary assessment of the *Applegate Trail's* eligibility as a historic site listed on the National Register of Historic Places.

The *Assessment* included a wealth of information describing the procedures for analyzing and protecting historic resources. These procedures include federal and state statutes, regulations, local ordinances, and court opinions (Chapter III, Standards). The *Assessment* also included conditions of approval for proposed Pioneer Meadow Subdivision (Chapter VI),

none of which were included in the BCC's decision. The county rejected the neighbors' claims, and this appeal to LUBA ensued.

The county had originally approved Pioneer Meadows under a Measure 37 waiver. Measure 37 was the ballot initiative that waived the prohibition against urban development in rural areas, allowing developers to create subdivisions and other structures in places ill-suited to such development. Interestingly, Pioneer Meadows was approved after voters approved Measure 49, which essentially repealed Measure 37. Measure 49 did, however, authorize projects approved under Measure 37 waivers to go forward where significant work had already been completed.

LUBA ruled in this case that because a significant amount of work had not been completed on the Pioneer Meadows subdivision, the county's previous approval of the project could not stand. Although LUBA decided the case without examining the ecological and cultural concerns, it is a win for the neighbors and our community, as important forestlands will remain intact.

LUBA final opinion didn't get to the heart of the issues we had with the proposal. In the end, a development that was only going to get approved under a Measure 37 waiver is not going forward and valuable resource lands will remain intact.

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