

**February 1, 2012 Meeting Minutes For
“I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project”**

Meeting Between ODOT & Hugo Emigrant Trails Committee

**Prepared by Hugo Emigrant Trails Committee
Hugo Neighborhood Association & Historical Society**

February 16, 2012

**February 1, 2012 Meeting Minutes For
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Meeting Between ODOT & Hugo Emigrant Trails Committee

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Abbreviations/Acronyms

CE	Categorical Exclusion
CEQ	Council On Environmental Quality
CFR	Code of Federal Regulations
CT Line	Collins Telegraph Line: 1864
EA	Environmental Assessment
EIS	Environmental Impact Statement
FHWA	Federal Highway Administration
GLO SubCommittee	GLO Field Review SubCommittee, HETC
G1	Goal One Coalition
HETC	Hugo Emigrant Trails Committee
HNA&HA	Hugo Neighborhood Association & Historical Society
JCHS	Josephine County Historical Society
JCSA	Josephine County Sportsman Association
LLP	Legacy Lands Project
NEPA	National Environmental Policy Act
NPS	National Park Service
NWOCTA	Northwest Chapter of OCTA
OCTA	Oregon-California Trails Association
ODOT	Oregon Department of Transportation
OHTAC	Oregon Historic Trails Advisory Council
OR Construction ROW Map: 1940	Oregon Highway Drawing No. 5B-28-11: August 1940
PT Line	Postal Telegraph Line: 1886 - 1887
REC	ODOT Regional Environmental Coordinator
RA	Rogue Advocates
SHPO	Oregon State Historic Preservation Office
SOU	Southern Oregon University
<i>Trail</i>	Applegate Trail

February 1, 2012 Meeting Minutes For “I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project”

I. PURPOSE & AGENDA

Purpose of Meeting

At the February 1, 2012 meeting between the Oregon Department of Transportation (ODOT) and the Hugo Neighborhood Association & Historical Society (HNA&HS), the ODOT will present an aerial photo overlaid with the project footprint to give the HNA&HS a better idea of the I-5 Northbound Sexton Mountain Climbing Lane Project’s impact to the area. If the HNA&HS has unaddressed concerns with regards to potential cultural resources located within the project area, ODOT and the HNA&HS will hold a meeting to discuss these concerns (Appendices A - C).

Agenda

ODOT & Hugo Neighborhood Association & Historical Society Meeting
I-5: Glendale-Hugo Paving/Northbound Sexton Mt. Climbing Lane
February 1, 2012, 1:00 p.m. - 2:30 p.m.
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503

1. Introductions
2. Project Overview and Timeline (Mark Leedom, Project Manager, ODOT)
NEPA Overview (Sam Dunnivant, Environmental Coordinator, ODOT)
3. Questions regarding the Project (non-cultural resource related: Leedom, & Dunnivant)
4. Cultural Resource Related Questions/Concerns (Jessica Bochart-Leusch, Archaeologist, ODOT)

II. PARTICIPANTS

A. Meeting Participants

There were six participants at the meeting (Appendix D).

Mark Leedom, Project Manager, ODOT
Jessica Bochart-Leusch, Archaeologist, ODOT
Sam Dunnivant, Environmental Coordinator, ODOT
Joe Neiderheiser, Member, GLO SubCommittee, HETC
Kelly Rarey, Member, GLO SubCommittee, HETC
Mike Walker, Co-Project Leader, HETC

B. Interested Agencies & Organizations

After the meeting the following entities were identified by HETC as the known lead and cooperating agencies, and the interested agencies, organizations, and groups.

Federal Highway Administration (FHWA)
GLO Field Review SubCommittee, HETC (GLO SubCommittee)
Goal One Coalition (G1)
Hugo Emigrant Trails Committee (HETC)
Hugo Neighborhood Association & Historical Society (HNA&HA)
Josephine County Historical Society (JCHS)
Josephine County Sportsman Association (JCSA)
Legacy Lands Project (LLP)
National Park Service (NPS)
Northwest Chapter of OCTA (NWOCTA)
Oregon-California Trails Association (OCTA)
Oregon Department of Transportation (ODOT)
Oregon Historic Trails Advisory Council (OHTAC)
Oregon State Historic Preservation Office (SHPO)
Rogue Advocates (RA)
Southern Oregon University (SOU)

III. ODOT PRESENTATIONS

A. Project Overview and Timeline

Mark Leedom, Project Manager, ODOT, provided the *I-5: Glendale to Hugo Paving and Sexton Climbing Lane Project* overview and timeline. The project started out as two projects: 1. paving I-5 from Hugo to Glendale, and 2. a six passing lanes project. The “Paving I-5 from Hugo to Glendale Project” involved Federal Highway Administration (FHWA’s) funds and, therefore, ODOT must develop the project under FHWA National Environmental Policy Act (NEPA) compliance standards. The ODOT and the FHWA agreed NEPA compliance would be a categorical exclusion (CE) process.

The I-5 Passing Lane Project was authorized by the Oregon Legislature and state funded, and therefore, did not require any NEPA compliance standards or FHWA approval of a CE. This originally included northbound and southbound passing lanes for three I-5 passes between Glendale and Hugo (i.e., Stage Road Pass, Smith Hill Summit, and Sexton Mountain Pass).

Over time the two projects merged with the title of *I-5: Jumpoff Joe to Glendale Paving & Climbing Lanes Project*. The merged project changed again when the original authorization of multiple-passing lanes was reduced to the one with the highest priority – the I-5 northbound passing lane from the Hugo I-5 interchange north to a point just north of the Sexton Mountain Pass.

At this point the two projects (i.e., paving I-5 from Hugo Exit 66 to Glendale Exit 80, and the northbound Sexton Mountain passing lane: mile point 66.7 to mile point 69.5 at blue I-5 sign) have been combined into one project with a new name more accurately describing the project: *I-5: Glendale to Hugo Paving and Sexton Climbing Lane Project*. Because of time and money efficiencies, the ODOT is proceeding concurrently on several phases of the project, including inventories, assessments, impacts, and the CE process. There is a small risk in the concurrent process (e.g., if significant impacts are identified, etc.). The final phase of the CE process will be a January 2013 ODOT (date correct?) recommendation to the FHA for approving a CE NEPA compliance classification. ODOT did not make comments on the draft minutes by the end of the editing period on February 15, 2012 (see Section VIII).

This project will re-pave approximately 14 miles of Interstate 5 between Hugo and Glendale, construct one 2.8-mile climbing lane, and make other safety improvements. Some project facts follow (<http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>).

“To help ease congestion and improve safety along this corridor, ODOT has secured funding to build one truck climbing lane. The lane, approximately 2.8 miles in length and 12 feet in width, will be located along northbound I-5 between the Hugo interchange and Sexton Mountain Pass. The new climbing lane will be constructed on top of the existing right shoulder, requiring the road to be widened in some areas to create a new shoulder.”

In some places, cuts significantly wider than the width of the climbing lane, will be required to support the required road widening (see Section III.D.).

Location:	I-5 MP 67.1-81.5 (paving) and MP 66.7-69.5 (NB Sexton climbing lane)
Total project budget:	\$49.6 million (estimate)
Bid let date:	January 24, 2013
Construction schedule:	Spring 2013 to Summer 2014

To save time and money ODOT is proceeding concurrently on several phases of the project. This means that there is a risk that information will become available concerning potentially significant impacts beyond the scope of the draft CE after some of the final design has been approved.

B. NEPA Overview

Sam Dunnivant, Environmental Coordinator, ODOT, provided an overview of the CE process. (Appendix G. Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Chapter 5: Environmental Documentation, Section 502. Categorical Exclusions. Pages 39 - 43. Prepared by ODOT Environmental Services. Salem, OR. http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t).

C. Cultural Resource Overview

Jessica Bochart-Leusch, Archaeologist, ODOT, provided an overview of the cultural resource inventories supporting the CE classification. The ODOT had already conducted a minimum of two field trips to HETC's two Applegate Trail segments of concern at Mt. Sexton Pass (i.e., 310' Segment Of *Trail* South Mt. Sexton Pass and 1,060' *Trail* I North Sexton Pass I-5 East).

ODOT's summary conclusion was that its internal cultural resources analysis for the CE meet its due diligence standard, and there are no Applegate Trail cultural resources that will be significantly impacted by the project. According to ODOT "significantly" (Appendix H) means that the cultural resources that the HETC has inventoried (Appendix B) are not potentially eligible for the National Register of Historic Places, and, therefore are not significant in themselves, nor can they be significantly impacted per the NEPA analysis process.

ODOT provided a copy of the Southern Oregon University cultural resources report applicable to the project. It has not been read, but it is assumed all sensitive site specific information has been redacted or removed and that it is a public document. The HETC thanks the ODOT for this document. This report will be read and incorporated into the HETC's inventories as applicable.

D. Project Footprint At Mt. Sexton Pass

The three members of the HETC reviewed the large aerial photo (3' - 4' long) with the project footprint of the northbound Sexton Mountain Climbing Lane Project's impact to the area. Of concern was a yellow line that depicted road cuts needed to support the expansion of I-5 to include the passing lane.

A potential issue per a previous email could be impacts to the first paved Pacific Highway in northern Josephine County, Oregon. A significant majority of the paved 1921 - 1922 Pacific Highway is still there on the ground at Mt. Sexton, on both the north and south sides and it looks like it will be impacted (Appendix C, HNA&HS's December 29, 2011 email).

Not clear to the participants from the aerial photo was the location of the cut line when compared to the HETC Applegate Trail inventory. It appeared to the members of the HETC that a significant portion of the HETC's inventoried 1,060' Applegate Trail I For North Sexton Pass I-5 East will be impacted by the project. If true, the project will significantly affect the Applegate National Historic Trail, a branch of the significant California National Historic Trail (Section V.B).

IV. HETC APPLGATE TRAIL INVENTORIES

The application of OCTA's "Cardinal Rules" as they relate to the substantial physical and written *Trail* documentation is considered conclusive evidence for the classifications of three *Trail* sites and two *Trail* segments. These five locations in the 1.8 mile route between *Trail* sites JA-14 and JA-16 have *Trail* classifications that range from a Class ① Unaltered Trail to a Class ④ Verified Altered Trail.

Trail Site Or Segment

Trail Classification

- | | |
|---|--------------------------------|
| 1. JA-14 Maple Creek | Class ④ Verified Altered Trail |
| 2. 310' Segment Of <i>Trail</i> South Mt. Sexton Pass | Class ① Unaltered Trail |
| 3. 1,060' <i>Trail</i> I North Sexton Pass I-5 East | Class ② Used Trail |
| 4. JA-15 South Rat Creek | Class ③ Verified Trail |
| 5. JA-16 Old Stage Road | Class ③ Verified Trail |

Hard-copy Applegate Trail Inventories Not Web Published

- 1874 *Josephine County Surveyed Road*
- 1940 *Right of Way Map, Sexton Mt. Section. Pacific Highway, Josephine County*

Web Published Trail Inventories:

(http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

- September 30, 2010. *Location Of Applegate Trail in Upper Rat Creek: A Work In Progress*
- September 15, 2011. *Gradient Measurement Field Trip: 310' Segment Of Applegate Trail At Mt. Sexton Pass.*
- December 28, 2011. *Smith Hill Pass: 1940*
- January 30, 2012. *Applegate Trail I North Sexton Pass I-5 East: I*

Web Published Trail Inventories: 310' Segment Of *Trail* South Mt. Sexton Pass

(http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

- Applegate Trail: Mt. Sexton Pass JA-14B
- JR Of Applegate Trail: 1853 Military Road At Mt. Sexton Pass JA-14C
- JR Of Applegate Trail: 1864 Collins Telegraph Line At Mt. Sexton Pass JA-14D
- JR Of Applegate Trail: 1886 - 1887 Postal Telegraph Line At Mt. Sexton Pass JA-14E
- JR Of Applegate Trail: 1941 At Mt. Sexton Pass JA-14F
- JR Of Applegate Trail: 2005 Metal Detection Survey At Mt. Sexton Pass JA-14G
- JR Of Applegate Trail: 2010 Big Tree At Mt. Sexton Pass JA-14H
- JR Of Applegate Trail: Topography & Grade At Mt. Sexton Pass JA-14I
- JR Of Applegate Trail: 2010 Chain At Mt. Sexton Pass JA-14J
- JR Of Applegate Trail: OCTA Trail Classification For Mt. Sexton Pass 310' Trail Segment JA-14K
- 1940 Right-of-Way Map, South Sexton Pass Trail, & Pacific Highway JA-15L

HETC's Web Published Applegate Trail Inventories: Insulators

(http://www.hugoneighborhood.org/Insulator_Brochure_Series.htm).

- 1964 Collins Telegraph Line
- 1886 - 1887 Postal Telegraph Line
- 1920s - 1950s AT&T Overhead Long Distance Telephone Lines
- *Interview: Howard Banks Crown Jewels of the Wire*

HETC's Web Published Applegate Trail Inventories To Be Finalized

(http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

Boling, Rarey, Rose, & Walker. Draft February 13, 2012. *Telegraph Lines and Applegate Trail at Smith Hill Pass*. For Hugo Neighborhood Association & Historical Society & Josephine County Historical Society. Hugo, OR.

Line-Of-Rocks Joe Neiderheiser, HETC, shared the view at the February 1, 2012 meeting that the line of rocks at the 1,060' segment of the Applegate Trail For North Sexton Pass I-5 East looked very similar to the emigrant Barlow Road; Joe can not tell the difference in the two topographic features. Leta Neiderheiser, Member, OHTAC, although not at meeting, has the same opinion (view is part of *Telegraph Lines and Applegate Trail at Smith Hill Pass* paper).

V. HETC ISSUES

A. Partnering with ODOT

The ODOT and HNA&HS have been partnering for a little over two years on the developing “*I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project*.” It has been an exciting time for the HETC in working with Jessica Bochart-Leusch, Archaeologist, ODOT, and other ODOT representatives, and University of Oregon and Southern Oregon University archeologists on surveys of historical and archaeological resources within the project area.

The HNA&HS values this partnership in sharing information about cultural resources and providing information to ODOT about its issues. A prime example is ODOT’s receptiveness of continuing to listen to the HNA&HS’s concerns as evidenced by its recent February 1, 2012 meeting with representatives of the HETC.

B. Applegate National Historic Trail Needs Protection

The Applegate National Historic Trail is a significant historical cultural resource that needs to be protected. The ODOT’s NEPA compliance process seems to rely entirely on the potentially eligibility for the National Register of Historic Places as the sole NEPA “significance” criteria and does not adequately recognize the importance of the Applegate National Historic Trail.

Cultural routes represent historic roads that evolved through necessity or tradition. While it is possible some cultural routes may have a documented rationale, they will not have the design and construction legacy of an aesthetic or engineered route. It is possible, and likely, later additions or alterations may be well documented. These may be roads that evolved from Native American, pioneer or animal trails, or simply logical connections between villages or through difficult terrain. Roads through mountain passes (i.e., Sexton Mountain Pass) or water gaps, paralleling the foot of mountains or following a line of stable soils or river courses are typical of cultural routes. Additional types of cultural routes may include a footpath between farms or to a resource site (sand, clay, timber or stone) that ultimately became roads.

Cultural routes, in use as roads today, generally exhibit the greatest number of historic periods or layers. Beneath the modern pavement are potentially rich archaeological sites representing not

only people and cultures over the years, but also the history of the very route— evidence of a cut bank to avoid sidling in the 1850s, remnants of an old *macadam road* from ca., 1910 - 1920, and other early unique highway improvements such as the 1922 paving at Sexton Mountain (*i.e.*, *5-inch bituminous pavement 13 feet in width, with 7-inch concrete shoulders 2½ feet in width on each side*). For cultural routes it is important to understand these layers as you make a determination as to the period or periods of significance that are worthy of preservation. Remember too, subsequent layers of the road may embody the characteristics of aesthetic or engineered routes.

The Oregon and the Mormon Pioneer Trails were authorized as national historic trails (NHTs) by Congress in 1978 (National Trails System Act, sections 5(a)(3) and (4)). In 1992 Congress established the California and Pony Express National Historic Trails (National Trails System Act), section 5(a)(18) and (19)).²³

THE NATIONAL TRAILS SYSTEM ACT
(P.L. 90-543, as amended through P.L. 108-342, October 18, 2004)
(also found in *United States Code*, Volume 16, Sections 1241-1251)

The NHTs did not follow single routes, rather numerous branches and cutoffs were used by the emigrants heading west. As designated by Congress in the NTSA, the Applegate Trail was the Southern Road to Oregon and is a branch of the California National Historic Trail.

Hugo is blessed with a rich heritage of historic roads, rough though they were. The *Hugo Emigrant Trails Committee (Trails Committee)* was formed to bring together all those who want to learn more about the early transportation in the area, from the casual admirer to the dedicated researcher.

National Historic Trails recognize diverse facets of history such as prominent past routes of exploration, migration, trade, communication and military action. The historic trails generally consist of remnant sites and trail segments, and thus are not necessarily contiguous. Although National Historic Trails are administered by federal agencies, land ownership may be in public or private hands. Of the 11 National Historic Trails, nine are administered by the National Park Service, one by the USDA Forest Service and one by the Bureau of Land Management. The California National Historic Trail and its Applegate Trail branch are administered by the National Park Service.

National Park Service/ U.S. Department of Interior

SEC. 5. [16USC1244] “(18) The California National Historic Trail, a route of approximately five thousand seven hundred miles, including all routes and cutoffs, extending from Independence and Saint Joseph, Missouri, and Council Bluffs, Iowa, to various points in California and Oregon, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled "California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment" and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of

the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof.”

California National Historic Trail

The State of Oregon recognizes the value and significance of its historic trails, including the Applegate Trail.

ORS 358.057(3)

The Applegate National Historic Trail

C. Substantial Evidence That 1,060' Applegate Trail I North Sexton Pass I-5 East Road Is Location Of Original Applegate Trail: 1853 -1855

There is substantial evidence that the 1,060' *Applegate Trail I North Sexton Pass I-5 East Road* is the location of the original Applegate Trail: 1853 -1855. There is a linear uniformity with three surveyed *Trail* sites and two physical surveyed *Trail* segments along a 1.8 mile route at Sexton Mountain Pass, and they form a continuous sequence (i.e., the *Trail* sites and segments under investigation link coherently with the *Trail* sites and segments that precede and follow them). These sites and segments from south to north follow.

1. Surveyed Site: 1855 Surveyed JA-14 Maple Creek Site
2. Physical Site: 1874 Surveyed 310' Segment Of Applegate Trail South Mt. Sexton Pass
3. Physical Site: 1874 Surveyed 1,060' Applegate Trail I North Sexton Pass I-5 East
4. Surveyed Site: 1893 Surveyed JA-15 South Rat Creek Site
5. Surveyed Site: 1855 Surveyed JA-16 Old Stage Road Site

The location of the 1864 Collins Telegraph Line (CT) ties two *Trail* sites and two *Trail* segments together in a continuous linear sequence from the 310' Pass *Trail* Segment to *Trail* site JA-16. The surveyed 1874 County Road ties the three sites and two segments together in a continuous linear sequence for the 1.8 miles from *Trail* sites JA-14 to JA-16. The three *Trail* sites and two *Trail* segments all have confirming written or cartographic evidence to support *Trail* identification for the 1.8 miles at Smith Hill Pass. The sites and segments under investigation have valid written documentation (i.e., diaries & reminiscences) or cartographic evidence (i.e., surveys) to support their authenticity.

There is abundant physical evidence that the 310' Pass *Trail* Segment is the 1853 *Trail*. The 1893 survey *Trail* site JA-15 and the two physical surveyed sites (i.e., 310' Pass *Trail* Segment and 1,060' Pass *Trail* Segment) correspond with the location of the 1874 Josephine County Road survey of the *Trail*. The 1940 OR Construction ROW Map also connects perfectly the two *Trail* segments and the JA-15 *Trail* site. JA-15 locations are only 13' apart when the 1893 GLO survey is plotted compared to the 1893 surveyed JA-15 location on the 1940 OR Construction ROW

Map. This is considered substantial evidence that the 1940 OR Construction ROW Map road with the adjacent line of telegraph pole locations was the *Trail* ca., 1853 - 1855.

For a very short distance the CT Line and PT Line are in the same portion for the lower segment of the 310' Pass *Trail* Segment. The CT Line is adjacent to the *Trail*. The later 1886 - 1887 Postal Telegraph Line (PT Line) has a course through the 310' Pass *Trail* Segment in a more northerly direction toward and over the pass. The 1864 pole locations on the 1940 OR Construction ROW Map road are convincing evidence that the upper county road (310' Pass *Trail* Segment) is the location of the original *Trail* ca., 1853 - 1855. The 1874 County Road survey and the 1940 OR Construction ROW Map are substantial evidence that the 1940 Highway Map's road with the adjacent line of pole locations was the *Trail* ca., 1853 - 1855 and the line was the CT Line for both the 310' Pass *Trail* Segment and 1,060' Pass *Trail* Segment.

Substantial Applegate Trail inventories and analysis to support this issue will be provided per the commitment by HETC (Section VI).

D. Public Involvement Fuzzy To Inadequate

It has been frustrating for the HETC in its effort to identify the ODOT's public involvement process, including NEPA compliance, for ODOT's "*I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project*". The HETC has asked about the NEPA analysis and decision documents for the project. None have been provided to the HETC by ODOT.

It is the intent of NEPA that agencies encourage and facilitate public involvement in decisions which affect the quality of the human environment. The CEQ regulations on implementing NEPA require that agencies make diligent effort to involve the public in preparing and implementing their NEPA procedures. They also require that agencies provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected by the project. ODOT's environment procedures echo the CEQ regulations.

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Chapter 5: Environmental Documentation, Section 514. Public Involvement. Pages 89 - 98. Prepared by ODOT Environmental Services. Salem, OR.
http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t.

- ! 23 CFR Section 450.212
- ! FHWA/ FTA Interim Policy on Public Involvement (1995)
- ! ODOT's Public Involvement Policies and Procedures
- ! FHWA/FTA Questions and Answers on Public Involvement in Transportation Decision-making

If no significant impacts are likely to occur, the results of environmental studies and any agency and public involvement should adequately support such a conclusion and be included in the request to the FHWA for CE approval. Page 42.

At what point will there be a public CE process (e.g., issues, inventories, analysis, decision, etc.) to make the public aware of the rationale for the project and its impacts?

E. NEPA Compliance Process For Archeological & Historical Impacts Is Conclusory

ODOT considers all its archeological and historical inventories and NEPA compliance analysis for significance internal and confidential to ODOT (i.e., SHPO documents and ODOT NEPA analysis documents). When asked about these documents and analyses the ODOT's response is that it has performed its due diligence for project impacts to archeological and historical resources. All the public knows is that ODOT is doing something and the public should trust its conclusory statements that archeological and historical resources are being protected.

ODOT's conclusory assertions and statements are without supporting evidence and not publicly justified. This lack of public facts and analysis makes it impossible for the public to meaningfully participate and possible contradiction is also impossible. Trust also becomes an issue.

F. Archeological And Historical Inventory and Impact Documents Are Confidential & Not Available To The Public

The ODOT archeological and historical inventories and NEPA compliance analysis for significance are confidential (i.e., SHPO documents and ODOT NEPA analysis documents) and not available to the public. When asked about these documents and analyses the ODOT response is that it has performed its due diligence for project impacts to archeological and historical resources, but no documents are made available.

G. SHPO's Cultural Resource Documents Do Not Exist To Civic Minded Publics

The HETC does not see the option of obtaining a copy of any cultural resource report from the State Historic Preservation Office (SHPO) as a viable option. The HETC already knows that the SHPO will not provide this type of secret/confidential information to average, dedicated, honest, civic minded citizens. In HETC's opinion, it would be a waste of time to discuss with the SHPO why this information is not available. HETC's issue is not about how some neighbors are vandals, trespassers, and destroyers of cultural resources. HETC's goal is to meaningfully participate in the ODOT project. However, it appears meaningful public involvement under this confidential system is impossible.

The HETC does not understand the communication from the SHPO regarding the release of the complete SOU report to the HNA&HS. ODOT was advised to not share the complete report, because if the information were to become public and site(s) were damaged as a result, ODOT could be held liable (December 21, 2011 ODOT email, Appendix C). If this assertion was true it appears to the HETC that OCTA's entire MET program would be in jeopardy as one of its main objectives is to publicly research, map, and mark emigrant trails. SHPO's position implies that the OCTA would be liable for any damage to emigrant trail sites because OCTA placed a marker on the site and that this public marking was illegally used by an unscrupulous person and group.

As a footnote the HETC also does not understand how making a SHPO cultural resource report could damage a non-significant cultural resource per ODOT's conclusory position that any roads at Mount Sexton are not significant (i.e., potentially eligible for the National Historic Register) and, therefore, can not be significantly impacted under NEPA compliance standards (Section III.C.).

H. ODOT Has Not Provided Specific Written Feedback to HETC

The ODOT has not provided any information or feedback on the HETC's web published Applegate Trail inventories (Section IV; Appendix B). Its conclusory assertions and statements are without supporting evidence and not publicly justified. This lack of public facts and analysis makes it impossible for the public to meaningfully participate and possible contradiction is also impossible.

I. Is A CE The Appropriate Environmental Documentation?

Without any publically available information concerning the NEPA process, it appears to the HETC that the project is a major federal action (i.e., 14 mile I-5 paving project and 2.8 mile passing lane project estimated to cost \$50 million) with the significance of the environmental impacts not clearly established (i.e., no information is publicly available). Why was a public environmental assessment (EA) not considered the appropriate environmental documentation to establish whether significant impacts would occur from the project?

VI. ODOT & HETC AGREEMENTS

At the February 1, 2012 meeting the HETC committed to provide its final Applegate Trail inventories to ODOT through web publishing for the following publications with a delivery goal of from two to three weeks (i.e., no later than February 22, 2012). (http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

- September 30, 2010. *Location Of Applegate Trail in Upper Rat Creek: A Work In Progress*
- September 15, 2011. *Gradient Measurement Field Trip: 310' Segment Of Applegate Trail At Mt. Sexton Pass.*
- December 28, 2011. *Smith Hill Pass: 1940*
- January 30, 2012. *Applegate Trail I North Sexton Pass I-5 East: I*
- Boling, Rarey, Rose, & Walker. Draft February 13, 2012. *Telegraph Lines and Applegate Trail at Smith Hill Pass.* For Hugo Neighborhood Association & Historical Society & Josephine County Historical Society. Hugo, OR.

This rest of the applicable inventories are already web published (Section IV; Appendix B).

The ODOT committed to review the HETC web published Applegate Trail information (Section IV; Appendix B). It will acknowledge receipt of the information and provide a public analysis of the significance of this information. True? If not, what did ODOT agree to do? ODOT did not

make comments on the draft minutes by the end of the editing period on February 15, 2012 (see Section VIII).

VII. REQUESTS

The Hugo Emigrant Trails Committee has several requests. These requests were developed after the February 1, 2012 meeting during the development of these minutes and not part of the process to review and approve the minutes.

1. The HETC requests to be placed on the “interested parties list” for the CE process, including when the REC sends the environmental document distribution transmittal letter for the final CE.
2. The HETC requests a public acknowledgment of its issues and environmental documentation concerning its Applegate Trail inventories and a statement that this information has been considered in the process.
3. The HETC requests that the ground be flagged for the yellow top of cut lines along the 1,060' Applegate Trail road section (Section III.D.). What is the *slope of the cut* and can it be modified? What is the *clearing limit* past the top of cut? Since it is all ODOT administered land, will there be a *no work zone* to keep equipment from wandering all over the place?
4. The total project budget is estimated to be \$49.6 million. What is the breakout for the paving project and the passing lane project?
5. What is the scheduled date for the final phase of the CE process when ODOT makes a recommendation to the FHWA to approve the CE NEPA compliance classification?
6. What is the FHWA contact information for the CE NEPA compliance determination?
7. What was the Oregon law that authorized the six passing lanes?
8. What kind of public involvement process will ODOT utilize to involve the public in the CE process? The HETC requests a copy of the public involvement plan for the project, and any scoping document that might have been developed.
9. Why does ODOT limit its analysis of significant impacts for cultural resources to those potentially eligible for the National Historic Register? Both the CEQ regulations and ODOT have additional standards for defining significant impacts (Appendix H).
10. It appears to the HETC that the project is a major federal action (i.e., 14 mile I-5 paving project and 2.8 mile passing lane project with significant road cuts estimated to cost \$50 million) with the significance of the environmental impacts not publicly established. Why is an environmental assessment not being prepared to establish significance?
11. How is Section 4(f) being applied to the project (23 CFR Sec. 771.135)?

12. ODOT provided a copy of the Southern Oregon University cultural resources report applicable to the project to the HETC. The report has not been read, but it is assumed all sensitive site specific information has been redacted or removed and that it is a public document. True?

13. What if significant impacts are identified during the CE process? What is the next phase in the process? It appears the "NEPA risk" the ODOT is taking in proceeding concurrently on several phases of the project (e.g., inventories, assessments, impacts, project design, CE process, etc.) could trigger the CEQ and ODOT's own requirements to prepare an environmental impact statement (EIS) if significance is identified.

14. Per the previous requests, the HETC feels there are unaddressed concerns with regards to cultural resources located within the project area, and the unknown CE public involvement process. Per the purpose of the meeting the HETC is requesting an additional meeting to discuss these concerns after the HETC ongoing inventories and analyses are made available to ODOT.

VIII MINUTES PREPARED BY HETC

These meeting minutes of the February 1, 2012 meeting between members of ODOT and members of the HETC were developed and approved by the three participating members of the HETC on February 16, 2012.

Joe Neiderheiser, Member, GLO Subcommittee, HETC
Kelly Rarey, Member, GLO Subcommittee, HETC
Mike Walker, Co-Project Leader, HETC

A copy of the the final minutes was provided to ODOT for review and comments on February 6, 2012. The HETC was pleased to offer the ODOT the opportunity to review and comment on the minutes, especially sections I, III, and VII. The time frame to comment by ODOT was identified as no later than February 15, 2012.

Sam Dunnivant, Region 3 Environmental Coordinator, ODOT, provided email acknowledgment comments for the February 6, 2012 minutes on February 14, 2012 (they follow). However, ODOT did not provide comments on the February 6, 2012 minutes.

From: "DUNNAVANT Sam K" <Sam.K.DUNNAVANT@odot.state.or.us>
To: "Mike Walker" <hugo@jeffnet.org>
Cc: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>; "LEEDOM Mark D" <Mark.D.LEEDOM@odot.state.or.us>; "COLLINS James D" <James.D.COLLINS@odot.state.or.us>
Subject: RE: "I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project"
Date: Tuesday, February 14, 2012 11:26 AM

Hi Mike-

Thanks for taking the time to meet with us on February 1, 2012 regarding the I-5: Glendale to Hugo paving and Sexton Climbing Lane project. As a result of this meeting, we are working with our designers to make the necessary adjustments in an attempt to avoid all impacts to the area of your group's concern.

ODOT received your memo dated February 6, 2012, but unfortunately due to resources we won't be able to respond by February 15, 2012. We will however respond no later than February 24, 2012.

Thank you,

Sam

Minutes distribution to Interested Agencies & Organizations (Section II.B) via email February 17, 2012.

Appendices

- Appendix A. ODOT December 7 2011 Letter To Glenn Harrison, Chair, OHTAC
- Appendix B. HNA&HS's Applegate Trail Inventories
- Appendix C. ODOT & HNA&HS Communications Prior To February 1, 2012 Meeting
- Appendix D. February 1, 2012 Meeting Participants
- Appendix E. Categorical Exclusion
- Appendix F. ODOT Categorical Exclusions
- Appendix G. ODOT Mitigation Measures
- Appendix H. ODOT Significantly
- Appendix I. ODOT Nation Trails Systems Act & National Historic Preservation Act

Appendix A. ODOT December 7 2011 Letter To Glenn Harrison, Chair, OHTAC Separate Attachment

Appendix B. HNA&HS's Applegate Trail Inventories

<u>Trail Site Or Segment</u>	<u>Trail Classification</u>
1. JA-14 Maple Creek	Class ④ Verified Altered Trail
2. 310' Segment Of <i>Trail</i> South Mt. Sexton Pass	Class ① Unaltered Trail
3. 1,060' <i>Trail</i> I North Sexton Pass I-5 East	Class ② Used Trail
4. JA-15 South Rat Creek	Class ③ Verified Trail
5. JA-16 Old Stage Road	Class ③ Verified Trail

HNA&HS's February 1, 2012 Meeting Letter

Separate attachment.

Hard-copy Applegate Trail Inventories Not Web Published

Josephine County Public Works. 1997. *1874 Josephine County Surveyed Road*. On July 11, 1997, Bob Chard, Engineering Technician III, Josephine County Public Works, developed a report on a road established by the Josephine County Commissioners on April 9, 1874 (Commissioner's Book 2, Page 261). Alex Watts, County Surveyor at that time, did a survey of the route. It is recorded as part of the Road Viewers Report as Road Number 12 (Book 1, Pages 40-45, May 20, 1874).

Oregon State Highway Department. August 1940. *Right of Way Map, Sexton Mt. Section. Pacific Highway, Josephine County*. Scale 1" = 100'. Part 1 of 2, Drg. No. 5B-28-11.

HETC's Web Published Applegate Trail Inventories

(http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

Drake, M. & Walker, M. September 15, 2011. *Gradient Measurement Field Trip: 310' Segment Of Applegate Trail At Mt. Sexton Pass*. For Hugo Neighborhood Association & Historical Society. Hugo, OR.

Drake, M. & Walker, M. November 7, 2011. *Field Trip to Mt. Sexton Pass*. Hugo, OR.

Drake, M., Rarey K., & Walker, M. December 28, 2011. *Smith Hill Pass: 1940*. For Hugo Neighborhood Association & Historical Society. Hugo, OR.

Walker, M., Rarey K., & Rose. K. September 30, 2010. *Location Of Applegate Trail in Upper Rat Creek: A Work In Progress*. For Hugo Neighborhood Association & Historical Society. Hugo, OR.

Walker, M., Rarey K., & Rose. K. January 30, 2012. *Applegate Trail I North Sexton Pass I-5 East: I*. For Hugo Neighborhood Association & Historical Society. Hugo, OR.

HETC's Web Published Applegate Trail Inventories

(<http://www.hugoneighborhood.org/inventorybrochures.htm>)

Hugo Emigrant Trail Committee, Hugo Neighborhood Association & Historical Society: Inventory Brochures. Quite a bit is known about the Applegate Trail in the vicinity of Chain Tree and Trail Rock. A 310' segment about 100' from Chain Tree is well documented.

- Applegate Trail: Mt. Sexton Pass JA-14B
- JR Of Applegate Trail: 1853 Military Road At Mt. Sexton Pass JA-14C
- JR Of Applegate Trail: 1864 Collins Telegraph Line At Mt. Sexton Pass JA-14D
- JR Of Applegate Trail: 1886 - 1887 Postal Telegraph Line At Mt. Sexton Pass JA-14E
- JR Of Applegate Trail: 1941 At Mt. Sexton Pass JA-14F
- JR Of Applegate Trail: 2005 Metal Detection Survey At Mt. Sexton Pass JA-14G
- JR Of Applegate Trail: 2010 Big Tree At Mt. Sexton Pass JA-14H
- JR Of Applegate Trail: Topography & Grade At Mt. Sexton Pass JA-14I
- JR Of Applegate Trail: 2010 Chain At Mt. Sexton Pass JA-14J
- JR Of Applegate Trail: OCTA Trail Classification For Mt. Sexton Pass 310' Trail Segment JA-14K
- 1940 Right-of-Way Map, South Sexton Pass Trail, & Pacific Highway JA-15L

HETC's Web Published Applegate Trail Inventories: Insulators

(http://www.hugoneighborhood.org/Insulator_Brochure_Series.htm).

Hugo Emigrant Trail Committee, Hugo Neighborhood Association & Historical Society: Inventory Brochures. Quite a bit is known about the insulators of Josephine County.

- 1964 Collins Telegraph Line (Brochure 5)
- 1886 - 1887 Postal Telegraph Line (Brochure 7)
- 1920s - 1950s AT&T Overhead Long Distance Telephone Lines (Brochure 8)
- Mike Walker, Education Chair, HNA&HS. February 24, 2006. *Interview: Howard Banks Crown Jewels of the Wire*. For Hugo Neighborhood Association & Historical Society. Hugo, OR

Hugo Native American Team, Hugo Neighborhood Association & Historical Society. August 31, 2011. *Minutes of Field Trip To Sexton Mt. Pass Trail Rock (Trail Rock) of Applegate Trail*. Mike Walker for HNA Team. Hugo, OR.

Hugo Neighborhood Association & Historical Society. March 2006. *Historical Auto Camps And Service Stations, Hugo Oregon Region*. Hugo, OR

Hugo Neighborhood Association & Historical Society and Josephine County Historical Society. January 13, 2008, Updated August 3, 2011. *John Smith Family: Hugo Pioneers*. Very Draft Brochure 73 in Hugo's Pioneers Brochure Series. Hugo, OR (<http://www.hugoneighborhood.org/hugospioneersseriesbro.htm>).

HETC's Web Published Applegate Trail Inventories To Be Finalized

(http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

Boling, Rarey, Rose, & Walker. Draft February 13, 2012. *Telegraph Lines and Applegate Trail at Smith Hill Pass*. For Hugo Neighborhood Association & Historical Society & Josephine County Historical Society. Hugo, OR.

Appendix C. ODOT & HNA&HS Communications Prior To February 1, 2012 Meeting

January 6, 2012

HNA&HS To ODOT To Reschedule Meeting

January 6, 2012

Glenn Harrison, Chair OHTAC Communication

December 29, 2011

HNA&HS To ODOT: HETC's Applegate Trail Issues

December 27, 2011

ODOT Response To HNA&HS's December 10, 2011 Meeting Request

December 20, 2011

HNA&HS To ODOT: Confidential Public Records for "Archaeological Sites or Objects"

December 16, 2011

ODOT Response To HNA&HS's December 10, 2011 Meeting Request

December 14, 2011

ODOT To HNA&HS: Impacts To Cultural Resources Are Not Anticipated.

December 12, 2011

HNA&HS & JCHS To OHTAC: HETC's Applegate Trail Issues

December 10, 2011

Glenn Harrison, Chair OHTAC Communication

December 10, 2011

HNA&HS Requested Meeting With ODOT & Copy of SOU's Cultural Report

December 7, 2011

Letter From ODOT To OHTAC

January 6, 2012

January 6, 2012 Email

Jessica:

Thank you. Sounds great.

Right now there will be two participants from the Hugo Emigrant Trails Committee: Kelly Rarey and Mike Walker. Is it possible to consider a meeting a few weeks later? I have a personal family issue I hope to be resolved in the near future. Could we meet sometime the week from January 30 to February 3, 2012 in the early afternoon, perhaps 1:00 p.m or 2:00 p.m.?

On another topic I telephoned and left a message with Jerry Marmon, ODOT District Manager, on January 2, 2012. Per your December 27, 2011 email the topic was ODOT's safety concerns associated with our proposal to mark the location of the Applegate Trail within the ODOT right-of-way with professional Northwest Oregon-California Trails Association carsonite markers. Is it possible to fold this agenda item into our discussion meeting?

Mike :)

January 6, 2012

From: "Glenn Harrison" <gr.harrison@comcast.net>

To: "Mike Walker" <hugo@jeffnet.org>

Cc: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>; "Rose Chelsea SOU" <rosec@sou.edu>; "John Pouley" <john.pouley@state.or.us>; "David Bogan" <David.Bogan@state.or.us>; "Drake Malcolm Joe Creek NA" <jumpoffjoe@roguelinkdsl.com>; "Jim Ford" <jrford@dishmail.net>; "Leslie Fryman" <catrail44@gmail.com>; "Stafford Hazelett" <hazelett@zzz.com>; "Leta Neiderheiser" <letan41@frontier.com>; "Henry Pittock" <hpittock3@mac.com>; "Roger Roper" <roger.roper@state.or.us>; "Billy Symms" <wsymms@peak.org>; "Jim Tompkins" <tompkins@bctonline.com>; "Boling Jean JCHS/NWOCTA/HNA&HS" <jeanboling@gmail.com>; "Karen Rose" <karenrose123@charter.net>; "Blalock Terall" <terallb@mbdfs.com>; "Rarey Kelly HNA&HS" <krarey@msn.com>; "Wytcherley Chris HNA&HS" <chrissurv@frontiernet.net>; "John Hayes" <jrhayes@coinet.com>; "Wendell Baskins" <webaskins@gmail.com>; "MARMON Jerry" <Jerry.MARMON@odot.state.or.us>; "Dennis Griffin" <dennis.griffin@state.or.us>; "LEEDOM Mark D" <Mark.D.LEEDOM@odot.state.or.us>; "COLLINS James D" <James.D.COLLINS@odot.state.or.us>
Subject: Re: 12/19/2011 Phone Conversation
Date: Friday, January 06, 2012 7:25 AM

Hi Mike & others,

Thanks for your efforts to preserve the Applegate Trail and other historic routes in the Hugo area. As you know some Oregon-California Trails Association members have looked at the route as well as have members of the Oregon Historic Trails Advisory Council. A few of your comments can be addressed.

The carsonite markers used by OCTA can be placed with the approval of the property owners at Applegate Trail locations that NW OCTA's Mapping & Marking Committee verify. As you know Henry Pittock III is the chair.

Some site information is confidential by federal law, so SHPO, ODOT, SOU or others may not release it.

While it would be nice to locate a segment of the actual Applegate Trail in your area, it is possible that what the Hugh Neighborhood Association found is a remnant of a wagon road of the last two decades of the 19th century based on its relatively excellent remaining condition. There are contemporary descriptions of the original wagon road being a swamp of mud churned by the hooves of oxen and horses and by the iron tires of freight wagons. What you and the Hugo NA have found needs to be reliably dated back to the period before the relocation and improvements of 1852-54 under Major Joseph Hooker. Keep searching for early maps and descriptions of the Applegate Trail, other wagon roads, and the stage route.

Glenn Harrison

January 05, 2012

From: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>
To: "Mike Walker" <hugo@jeffnet.org>
Cc: "COLLINS James D" <James.D.COLLINS@odot.state.or.us>; "DUNNAVANT Sam K" <Sam.K.DUNNAVANT@odot.state.or.us>; "LEEDOM Mark D" <Mark.D.LEEDOM@odot.state.or.us>
Subject: Hugo Neighborhood Association/ODOT meeting
Date: Thursday, January 05, 2012 11:10 AM

Dear Mike,

The designer has completed the aerial map showing the project limits. My understanding is that it is a very large map. I was writing to see if the appropriate representative(s) from the Hugo Neighborhood Association are available to meet at our ODOT offices here in White City on January 18th or 19th at 9:30 AM. The project manager, Mark Leedom, will be in attendance to answer non-cultural resource project questions. My thought is that this meeting will give the Hugo Neighborhood Association a chance to look over the map to see if they have additional questions/concerns. If additional clarification is required, I was thinking that we could visit the locations of potential concern in the field directly afterward.

Sincerely,

Jessica Bochart-Leusch

Jessica Bochart-Leusch, Archaeologist
Cultural Resources Tribal Liaison
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: (541) 864-8820 Mobile: (541) 530-0501
Fax: (541) 774-6397
jessica.bochart@odot.state.or.us

December 29, 2011

From: Mike Walker [mailto:hugo@jeffnet.org]
Sent: Thursday, December 29, 2011 12:18 PM
To: BOCHART Jessica
Cc: Rose Chelsea SOU; Drake Malcolm Joe Creek NA; POULEY John; BOGAN David; Ford Jim & Rene HNA&HS/OCTA; Fryman Leslie OCTA; Harrison Glenn OHTAC; Hazelett Stafford; Neiderheiser Leta; Pittock Henry NWOCTA; ROPER Roger; Symms Billy NWOCTA; Tompkins Jim NWOCTA; Walker Mike HNAHS/RA/G1/JCHS/OCTA; Boling Jean JCHS/NWOCTA/HNA&HS; Blalock Terall; Neiderheiser Joe HNA&HS/OCTA; Rarey Kelly HNA&HS; Rose Karen HNA&HS/JCHS/OCTA; Wytcherley Chris HNA&HS; MARMON Jerry; LEEDOM Mark D; COLLINS James D
Subject: Re: 12/19/2011 Phone Conversation

December 29, 2011

Jessica Bochart-Leusch, Archaeologist
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: 541-864-8820
Mobile: 541-530-0501
Email: jessica.bochart@odot.state.or.us

Dear Jessica:

Thank you so much for the short summary of our December 19, 2011 telephone conversation. It is very helpful and we are encouraged by the dialogue occurring. We also want to repeat that we are in support of the Mt. Sexton I-5 passing lane project in some form as we agree the problem being addressed is a significant safety problem.

We very much appreciate the idea of reviewing an aerial photo overlaid with the project footprint to give us a better idea for the area to be impacted as part of the I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project near Mt. Sexton Pass. We understand that the aerial photo overlay with the project footprint will be for a northbound climbing lane along Sexton Mountain. Is the ODOT authorization document limited to this particular design for the northbound climbing lane? Is a southbound climbing lane authorized as part of the project? We will certainly review the photo overlay when we receive it and provide comments to you.

However, our overall view is that it will be difficult to impossible to effectively participate if we do not understand the authorized I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project (i.e., NEPA documentation and decision document) and its relationship to the Applegate Trail inventories being used by ODOT for the project.

The web page address you provided for the I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project was informative. Thank you. The project materials section on "Frequently asked questions" was also helpful. It provided an overview answer to our questions about the overall project:

"While there is no funding to build other climbing lanes at this time, the intent is to eventually add lanes on each of the three passes between Glendale and Hugo."

"As part of the current project, ODOT completed drilling, survey, and initial design work for climbing lanes on southbound Sexton and southbound Stage Road passes, which will be the next lanes built if more funding becomes available in the future."

Your statement that "Due to the evolving nature of this project, some of the design elements may be eliminated from the project scope." was interesting, but based on the above ODOT response to frequently asked questions, we have to assume that design elements may also be added within the project scope. True? This gets us back to understanding the total project authorized for Mt. Sexton.

We will contact Jerry Marmon, ODOT District Manager, for more information regarding ODOT's safety concerns associated with our proposal to mark the location of the Applegate Trail within the ODOT right-of-way with professional Northwest Oregon-California Trails Association carsonite markers. Thank you.

Per our options provided we request ODOT to provide a copy of the SOU report with all sensitive site specific information redacted or removed. Thank you.

We do not see the option of obtaining a copy of the SOU report from the State Historic Preservation Office (SHPO) as a viable option, and we do not understand why it is listed as an alternative. We already know that the SHPO will not provide this type of secret information to average, dedicated, honest citizens. Therefore, in our opinion, it would be a waste of time to discuss with the SHPO why this information is not available. Our issue is not about how some neighbors are vandals, trespassers, and destroyers of cultural resources. Our goal is to meaningfully participate in the ODOT passing project.

Our overall view is that it will be difficult to impossible to effectively participate if we do not understand the authorized I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project (i.e., NEPA documentation, or the like, and the decision document), and the Applegate Trail inventories being used by ODOT for the project.

We ask that our question about the public not being able to effectively participate for our given reasons be added to the frequently asked questions at web page <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>.

Another potential issue could be impacts to the first paved Pacific Highway in northern Josephine County, Oregon. A significant majority of the paved 1921 - 1922 Pacific Highway is still there on the ground at Mt. Sexton, both north and south sides.

"The Sexton Mt section was paved with type "C" pavement which consisted of a 5" bituminous pavement 13' wide, with 7" thick concrete shoulders 2½ feet wide. The concrete shoulder design is relatively rare in the state. The Sexton Mt - Grants Pass section was paved 16' wide, 3" bituminous base covered by a 2" bituminous wearing surface. Rock shoulders were 2' wide."

This information and much more is documented on our "Auto Camps and Transportation" web page at <http://www.hugoneighborhood.org/autocamp.htm> (see Appendix A, Brochures 1D -1F for the specific quote.

In summary, we are still interested in understanding the authorized I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project. As a substitution for the Applegate Trail resources that ODOT is using we will evaluate the project with the significant Applegate Trail inventories that we have and are continually researching.

Mike :)

Mike Walker, Co-Project Leader
Hugo Emigrant Trails Committee
Hugo Neighborhood Association & Historical Society
3388B Merlin Rd #195
Grants Pass, Oregon 97526
541-471-8271
Email: hugo@jeffnet.org
Web Page: <http://www.hugoneighborhood.org/>

Email copies:

Hugo Emigrant Trails Committee

Jean Boling, Historic Sites Chair
Josephine County Historical Society

Glenn Harrison OHTAC Mailing List

Malcolm Drake, Chair
Jumpoff Joe Citizen Advisory Committee

Chelsea Rose, Staff Archaeologist
Southern Oregon University Laboratory of Anthropology

December 27, 2011

From: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>
To: "Mike Walker" <hugo@jeffnet.org>
Cc: "COLLINS James D" <James.D.COLLINS@odot.state.or.us>; "LEEDOM Mark D" <Mark.D.LEEDOM@odot.state.or.us>; "MARMON Jerry" <Jerry.MARMON@odot.state.or.us>
Subject: 12/19/2011 Phone Conversation
Date: Tuesday, December 27, 2011 8:13 AM

Dear Mike,

I wanted to provide a short summary of our conversation on 12/19/2011.

The project designer for the I-5: Glendale to Hugo Paving and Sexton Climbing Lane Project is preparing an aerial photo overlaid with the project footprint to give the Hugo Neighborhood Association a better idea for the area to be impacted as part of this project near Sexton Pass. As mentioned previously, ODOT only has plans to build a northbound climbing lane along Sexton Mountain. If the Hugo Neighborhood Association still has unaddressed concerns with regards to potential cultural resources located within the project area, ODOT and the Hugo Neighborhood Association will hold a meeting to discuss these concerns.

The webpage requested by the Hugo Neighborhood Association was recently added to the ODOT Region 3 webpage. Here is a link to the website: <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>
Due to the evolving nature of this project, some of the design elements may be eliminated from the project scope.

As discussed, I have recommended that the Hugo Neighborhood Association and yourself contact Jerry Marmon, ODOT District Manager, for more information regarding ODOT's safety concerns associated with your proposal to mark the tentative location of the Applegate Trail within the ODOT right-of-way. His contact information is:

Jerry Marmon
District Manager
Oregon Department of Transportation

100 Antelope Road
White City, OR 97503
(541) 774-6355

The Hugo Neighborhood Association has requested a copy of the Applegate Trail report completed by the Southern Oregon University Laboratory of Anthropology. At this time, two options are available to the Hugo Neighborhood Association:

- 1) Obtain a copy from the State Historic Preservation Office
- 2) ODOT has offered to provide a copy of the report with all sensitive site specific information redacted or removed.

As a follow up to our conversation, I spoke with the State Historic Preservation Office regarding the release of the complete report to the Hugo Neighborhood Association. I was advised to not share the complete report, because if the information were to become public and site(s) were damaged as a result, I could be held liable. Dennis Griffin, State Archaeologist, has offered to go discuss this with the Hugo Neighborhood Association. His contact information is:

Dr. Dennis Griffin
State Archaeologist
State Historic Preservation Office
Oregon Parks and Recreation Department
725 Summer Street, NE, Suite C
Salem, OR 97301-1271
Phone: (503) 986-0674
Fax: (503) 986-0793
Email: dennis.griffin@state.or.us <<mailto:dennis.griffin@state.or.us>>

Sincerely,
Jessica Bochart-Leusch

Jessica Bochart-Leusch, Archaeologist
Cultural Resources Tribal Liaison
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: (541) 864-8820 Mobile: (541) 530-0501
Fax: (541) 774-6397
jessica.bochart@odot.state.or.us

December 20, 2011 Email

Jessica Bochart-Leusch, Archaeologist
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: 541-864-8820
Mobile: 541-530-0501
Email: jessica.bochart@odot.state.or.us

Dear Jessica:

It was good talking to you on the telephone yesterday, Monday, December 19, 2011, about the Applegate Trail at Mt. Sexton Pass and ODOT's general passing lane project there, as well as other topics. I am looking forward to your email summary of our conversation.

I will address only one of our discussion topics in this communication as you asked me to read ORS 192.501(11) which includes a reference to ORS 358.905 (Appendix A). I had thought the ORS reference pertained to my December 10, 2011 request for a copy of the cultural resource report that Chelsea Rose, Staff Archaeologist for the Southern Oregon University Laboratory of Anthropology, completed for the Oregon Department of Transportation (i.e., Applegate Trail historic context statement work for the I-5 transportation right-of-way from approximately Schoolhouse Creek to near Azalea; I-5 mile marker 60 through 80). However, after reading ORS 192.501(11) I was confused because the ORS is all about confidential public records for "archaeological sites or objects" as those terms are defined in ORS 358.905. I had assumed that "archaeological sites or objects" at Mt. Sexton Pass would probably have been about the culture of the Lowland Takelma and their potential remains such as lithic quarries, house pit villages, camps, burials, and lithic scatters. We know of no such remains at Mt. Sexton Pass.

In review, my understanding is that the Oregon SHPO Archaeological Services' defines historic sites as follows.

"Historic non-archaeological sites consist of property types such as buildings, sites, structures, objects, and districts that in general are still used or maintained. In most cases, linear features (regardless of condition) such as roads, railroads, ditches and canals, are recorded as historic non-archaeological sites and not as historic archaeological sites. However, abandoned linear features that have a high potential of adding to knowledge of past land use practices (e.g., Chinese mining ditches, early wagon roads) will be recorded as historic archaeological sites and given Smithsonian trinomial numbers."

At this point I presume that your reference to ORS 192.501(11) means that ODOT has determined that the Applegate Trail at Mt. Sexton Pass is a significant historic archaeological site under ORS 192.501(11) and a copy of Chelsea Rose's cultural resource report will not be available to the Hugo Neighborhood Association & Historical Society. True? Besides Hugo's own research of the Applegate Trail we are not knowledgeable of any pre-history or significant historic archaeological sites documented for Mt. Sexton Pass. We would like it to be so for the Applegate Trail, but our supporting trail research is only by citizens. We do take our research, mapping, and marking methodology for the Applegate Trail seriously (i.e., OCTA's *Marking Emigrant Trails Manuel*).

I would still like to meet you sometime in Grants Pass over coffee to discuss the Hugo Emigrant Trails Committee's research, mapping, and marking of the Applegate Trail in northern Josephine County.

Sincerely,

Mike Walker, Co-Project Coordinator
Hugo Emigrant Trails Committee
Hugo Neighborhood Association & Historical Society
3388B Merlin Rd #195
Grants Pass, Oregon 97526
541-471-8271
Email: hugo@jeffnet.org
Web Page: <http://jeffnet.org/~hugo/>

Email copies:

GLO Field Review Subcommittee
Hugo Emigrant Trails Committee

Jean Boling, Chair
Historic Site Committee
Josephine County Historical Society

Glenn Harrison, Chair
OHTAC

Chelsea Rose, Staff Archaeologist
Southern Oregon University Laboratory of Anthropology
Southern Oregon University

Appendix A. ORS 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance:

ORS 192.501.11 “(11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe’s cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.”

December 16, 2011

From: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>
To: "Mike Walker" <hugo@jeffnet.org>
Subject: RE: Request Copy of Cultural Report
Date: Friday, December 16, 2011 3:56 PM

Hi Mike,

I wanted to let you know that I received your email regarding your request to discuss the Hugo Emigrant Trails Committee's research, mapping, and marking of the Applegate Trail project and your request for a copy of the archaeological report completed by the Southern Oregon University Laboratory of Anthropology. I wanted to let you know that I am working on getting answers to your questions. I hope to have an answer to both requests by next week, but as you can imagine with the holidays several folks are out of the office on vacation. I will give you a call next week with answers to both questions and/or with an update on my progress.

Sincerely,

Jessica

Jessica Bochart-Leusch, Archaeologist
Cultural Resources Tribal Liaison
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: (541) 864-8820 Mobile: (541) 530-0501
Fax: (541) 774-6397
jessica.bochart@odot.state.or.us

December 14, 2011

From: "BOCHART Jessica" <Jessica.BOCHART@odot.state.or.us>
To: "Mike Walker" <hugo@jeffnet.org>; "Glenn Harrison" <gr.harrison@comcast.net>; "POULEY John" <John.Pouley@state.or.us>; "BOGAN David" <David.Bogan@state.or.us>; "ROPER Roger" <Roger.Roper@state.or.us>; "Stafford Hazelett" <hazelett@zzz.com>; "Leslie Fryman" <catrail44@gmail.com>;

"Jim Tompkins" <tompkins@bctonline.com>; "Billy Symms" <wsymms@peak.org>; "Henry Pittock" <hpittock3@mac.com>; "Leta Neiderheiser" <letan41@frontier.com>; "Jim Ford" <jrford@dishmail.net>
Cc: "Neiderheiser Leta" <letan41@frontier.com>; "Boling Jean JCHS" <jeanboling@gmail.com>; "Blalock Terall" <terallb@mbdfs.com>; "Ford Jim & Rene HNA&HS/OCTA" <jrford@dishmail.net>; "Neiderheiser Joe HNA&HS/OCTA" <jjoen36@frontier.com>; "Rarey Kelly HNA&HS" <krarey@msn.com>; "Rose Karen HNA&HS/OCTA" <karenrose123@charter.net>; "Wytcherley Chris HNA&HS" <chrissurv@frontiernet.net>; "Rose Chelsea SOU" <rosec@sou.edu>; "COLLINS James D" <James.D.COLLINS@odot.state.or.us>
Subject: RE: ODOT Response
Date: Wednesday, December 14, 2011 9:04 AM

Hi Mike,

Hope all is well. I just wanted to let you know that ODOT's plans have not changed since my email to you back on October 5, 2011.

"Due to funding constraints, ODOT has no plans to build the southbound passing lane at Mt. Sexton. If we did receive additional funding, which is highly doubtful given the existing political climate, we would mitigate any impacts to the historic location of the Applegate Trail."

ODOT contracted with the University of Oregon's Natural and Cultural Museum of Natural History to evaluate cultural resource concerns throughout the project area and with the Southern Oregon University Laboratory of Anthropology to conduct a comprehensive background study of the Applegate Trail throughout the same project corridor. At this time, impacts to cultural resources are not anticipated. Given the current scope of work, if the Hugo Neighborhood Association still has concerns with regards to cultural resources, please submit written documentation, so that I may review and evaluate your concerns.

Sincerely,

Jessica Bochart-Leusch

Jessica Bochart-Leusch, Archaeologist
Cultural Resources Tribal Liaison
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: (541) 864-8820 Mobile: (541) 530-0501
Fax: (541) 774-6397
jessica.bochart@odot.state.or.us

December 12, 2011

From: Mike Walker [mailto:hugo@jeffnet.org]
Sent: Monday, December 12, 2011 5:24 AM
To: Glenn Harrison; POULEY John; BOGAN David; ROPER Roger; Stafford Hazelett; Leslie Fryman; Jim Tompkins; Billy Symms; Henry Pittock; Leta Neiderheiser; Jim Ford
Cc: Neiderheiser Leta; Boling Jean JCHS; Blalock Terall; Ford Jim & Rene HNA&HS/OCTA; Neiderheiser Joe HNA&HS/OCTA; Rarey Kelly HNA&HS; Rose Karen HNA&HS/OCTA; WalkerHNA/RA/G1/OCTA; Wytcherley Chris HNA&HS; BOCHART Jessica; Rose Chelsea SOU
Subject: Re: ODOT Response

December 12, 2011

Glenn Harrison, Chair
Oregon Historic Trails Advisory Council
1132 30th Place SW
Albany, Oregon 97321
Email: gr.harrison@comcast.net

Dear Glenn:

The footprints of the proposed northbound and southbound Sexton Mountain I-5 climbing lanes may very well not touch any portion of the Applegate Trail. The issue is that we have no specific information to support this conclusion from ODOT (see email attachment). We privately wonder how this could be true as we are still conducting detailed research, mapping, and marking projects of the Applegate Trail on both sides of Mt. Sexton Pass where the trail is located within the ROW, including at the edges of both the existing west and east I-5 highway footprints. We would like to believe otherwise, but we do not understand how ODOT can develop new passing lanes without expanding the width of the pavement from the existing highway footprints.

Sincerely,

Jean & Mike :)

Jean Boling, Historic Sites Chair
Josephine County Historical Society
214 Booth Street
Grants Pass, Oregon 97526
541-787-1859
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Web: <http://www.jocohistorical.org/>

Mike Walker, Co-Project Chair
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Hugo Neighborhood Association
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541-471-8271
Email: hugo@jeffnet.org
Web: <http://www.hugoneighborhood.org/>

December 10, 2011

From: Glenn Harrison <mailto:gr.harrison@comcast.net>
To: Jim Ford <mailto:jrford@dishmail.net> ; Leta Neiderheiser <mailto:letan41@frontier.com>; Mike Walker <mailto:hugo@jeffnet.org>; Henry Pittcock <mailto:hpittcock3@mac.com>; Billy Symms <mailto:wsymms@peak.org>; Jim Tompkins <mailto:tompkins@bctonline.com>; Leslie Fryman <mailto:catrail44@gmail.com>; Stafford Hazelett <mailto:hazelett@zzz.com>; Roger Roper <mailto:roger.roper@state.or.us>; David Bogan <mailto:David.Bogan@state.or.us>; John Pouley <mailto:john.pouley@state.or.us>
Sent: Saturday, December 10, 2011 8:45 AM
Subject: ODOT Response

Although no one from ODOT contacted OHTAC or OCTA, here is the response to the Applegate Trail concern.

Glenn [Harrison, Chair Oregon Historic Trails Advisory Council]

December 10, 2011

From: Mike Walker [mailto:hugo@jeffnet.org]
Sent: Saturday, December 10, 2011 6:57 PM
To: BOCHART Jessica
Cc: Rose Chelsea SOU; Walker Mike HNAHS/RA/G1C/NWOCTA
Subject: Request Copy of Cultural Report

December 10, 2011

Jessica Bochart-Leusch, Archaeologist
Oregon Department of Transportation
Rogue Valley Office
100 Antelope Road
White City, Oregon 97503
Desk: 541-864-8820
Mobile: 541-530-0501
Email: jessica.bochart@odot.state.or.us
<mailto:jessica.bochart@odot.state.or.us>

Dear Jessica:

I am requesting a meeting with you sometime in Grants Pass over coffee to discuss the Hugo Emigrant Trails Committee's research, mapping, and marking of the Applegate Trail in northern Josephine County.

Is it possible to get a copy of the cultural resource report that Chelsea Rose, Staff Archaeologist for the Southern Oregon University Laboratory of Anthropology, completed for the Oregon Department of Transportation (i.e., Applegate Trail historic context statement work for the I-5 transportation right-of-way from approximately Schoolhouse Creek to near Azalea; I-5 mile marker 60 through 80)?

Sincerely,

Mike Walker, Co-Project Coordinator
Hugo Emigrant Trails Committee
Hugo Neighborhood Association & Historical Society
3388B Merlin Rd #195
Grants Pass, Oregon 97526
541-471-8271
Email: hugo@jeffnet.org

Web Page: <http://jeffnet.org/~hugo/> <<http://jeffnet.org/~hugo/>>

Email copy:

Chelsea Rose, Staff Archaeologist
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Southern Oregon University
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Ashland, Oregon 97520
541-552-6764
Email: rosec@sou.edu
Web Page: <http://140.211.107.49/anthropology/anthlab/index.html>

Appendix D. February 1, 2012 Meeting Participants

There were six participants at the meeting.

Mark Leedom, Project Manager, ODOT
Jessica Bochart-Leusch, Archaeologist, ODOT
Sam Dunnivant, Environmental Coordinator, ODOT
Joe Neiderheiser, Member, GLO SubCommittee, HETC
Kelly Rarey, Member, GLO SubCommittee, HETC
Mike Walker, Co-Project Leader, HETC

Mark Leedom, Project Leader
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Web Page: <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>

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Rogue Valley Office
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White City, Oregon 97503
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Email: jessica.bochart@odot.state.or.us
Web Page: <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>

Sam Dunnivant, Region 3 Environmental Coordinator
Oregon Department of Transportation
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Roseburg, Oregon 97470
541- 957-3519 - Office
541-430-6863 - Cell
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Web Page: <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>

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GLO Field Review SubCommittee
Hugo Emigrants Trails Committee
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Email: joen36@frontier.com
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Kelly Rarey, Member
GLO Field Review SubCommittee
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Hugo Neighborhood
275 Canyon Oak Drive
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Email: Krarey@msn.com
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Mike Walker, Co-Project Leader
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Web Page: <http://www.hugoneighborhood.org/>

Appendix E. Categorical Exclusion

40 CFR Sec. 1508.4 "Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

Each agency of the Federal government is required to comply with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), and, in consultation with CEQ, to develop their agency specific procedures to ensure that environmental information is available to the public and the agency decision makers before decisions are made and actions taken (40 CFR 1507.3)

23 CFR Sec. 771.117 and FHWA Technical Advisory T6640.8A, 10/30/1987

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Chapter 2: Regulations, Section 204. Section 4(f). Pages 13 - 15. Prepared by ODOT Environmental Services. Salem, OR.
http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

23 CFR Sec. 771.135 - Section 4(f)

204. SECTION 4(f)

source: http://www.fhwa.dot.gov/environment/4_f.htm

It is national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. In the United States Department of Transportation (USDOT) Act of 1966, a special provision was included to provide protection to these resources. It is known as Section 4(f), and it stipulates that the FHWA will not approve any program or project which requires the use of any publicly owned public park, recreation area, or wildlife or waterfowl refuge, or any land from an historic site of national, state, or local significance unless:

1. There is no feasible and prudent alternative to the use, and
2. all possible planning to minimize harm resulting from such use is included.

FHWA includes an evaluation of the use of land protected under Section 4(f) when assessing the environmental effects of an action through the NEPA process. The environmental regulations for applying Section 4(f) to transportation project development can be found at 23 CFR 771.135.

For other detailed guidance on applying the requirements of Section 4(f), the FHWA wrote the Section 4(f) Policy Paper, which discusses such topics as the history of Section 4(f), alternatives analysis, mitigation, and how Section 4(f) relates to other statutes and regulations which protect the same types of resources.

In order for FHWA field offices to make key determinations on projects having minor impacts on areas protected by Section 4(f), the agency issued several Nationwide Section 4(f) Programmatic Statements.

Section 4(f) policy and guidance can be found on FHWA's website at:

<http://www.fhwa.dot.gov>

Select the FHWA Programs Link

Select the Planning, Environment, and Real Estate Link

Select the NEPA Project Development Link

Select the Section 4(f) Link

Appendix F. ODOT Categorical Exclusions

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Chapter 5: Environmental Documentation, Section 502. Categorical Exclusions. Pages 39 - 43. Prepared by ODOT Environmental Services. Salem, OR.
http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

502. CATEGORICAL EXCLUSIONS

Definition (23 CFR Sec. 771.117 and FHWA Technical Advisory T6640.8A, 10/30/1987) pages 39 - 40.

Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. (emphasis added) They are actions which:

- ! do not induce significant impacts to planned growth or land use for the area;
- ! do not require the relocation of significant numbers of people;
- ! **do not have a significant impact on any natural, cultural, recreational, historic or other resource;** do not involve significant air, noise, or water quality impacts; (emphasis added)
- ! do not have significant impacts on travel patterns; or,
- ! do not otherwise, either individually or cumulatively, have any significant environmental impacts.

Any action which normally would be classified as a CE but could involve unusual circumstances will require FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include: (emphasis added)

- (1) **Significant environmental impacts;** (emphasis added)
- (2) **Substantial controversy on environmental grounds;** (emphasis added)
- (3) Significant impact on properties protected by section 4(f) of the DOT Act or **section 106 of the National Historic Preservation Act;** or (emphasis added)
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and 23 CFR 771.117(a) and normally do not require any further NEPA approvals by the Administration: (emphasis added)

1. Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. - 20. Pages 40 - 41.

Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and 23 CFR Section 771.117(a) may be designated as CEs only after Administration approval. (emphasis added)

The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

1. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).
2. - 12. Page 41.

Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in 23 CFR Part 771. 117 paragraphs (c) or (d), as appropriate.

If no significant impacts are likely to occur, the results of environmental studies and any agency and public involvement should adequately support such a conclusion and be included in the request to the FHWA for CE approval. Page 42. (emphasis added)

If significant impacts are likely to occur, an EIS must be prepared (23 CFR 771.123(a)). If the likelihood of significant impacts is uncertain even after studies have been undertaken, the HA should consult with the FHWA to determine whether to prepare an EA or an EIS. Page 42. (emphasis added)

Process

Part 3 of the Project Prospectus recommends the classification of a project. If a project is recommended as a CE, ODOT Environmental Services approves the classification if the project is state funded, or recommends the classification to FHWA for approval if federal funds are involved. The following outlines ODOT's procedure for preparing CEs.

- ! The REC [ODOT Regional Environmental Coordinator] prepares Part 3 of the project prospectus and its attachment (Regional Environmental Checklist). (emphasis added)
- ! The Part 3 is then sent to the STIP coordinator who prepares a cover letter for the Region Manager to sign and a copy of the prospectus is sent to the Funds and Grants Unit to be keyed into the Project Control System (PCS).
- ! The original prospectus remains in the Region project file and copies are forwarded to the Project Leader, Team Members, Salem Environmental Services Section, affected local agencies, agreement writer, and FHWA for concurrence of the environmental classification.

Content

23 CFR Section 771.117 requires that: The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result.

Information required in the Part 3 includes:

There is a list of 19 information items required, including "*Estimated archeological and historical impacts.*" Pages 42 - 43.

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1.* Chapter 5: Environmental Documentation, Section 500. Introduction & Environmental Reconnaissance Reports. Page 36. Prepared by ODOT Environmental Services. Salem, OR.

http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

500. INTRODUCTION

The purpose of this chapter is to provide a description of the environmental documentation ODOT prepares as part of the NEPA and ODOT's process for preparing the documents.

Note: Examples of all of the transmittal letters, forms, and signature pages mentioned in this chapter are included in Chapter 7.

501. ENVIRONMENTAL RECONNAISSANCE REPORTS

Definition

As discussed in Chapter 4, Environmental Reconnaissance reports are often prepared to aid in developing project design alternatives. They are meant to be a broad identification of potential environmental and social issues.

Appendix G. ODOT Mitigation Measures

CEQ Regulations

40 CFR 1508.20 Mitigation. "Mitigation" includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Mitigation. Pages 122 - 123. Prepared by ODOT Environmental Services. Salem, OR. http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

Mitigation

The ODOT's mitigation measures are the federal CEQ regulations of mitigation (40 CFR 1508.20). "Mitigation" includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments (40 CFR Sec. 1508.20).

Appendix H. ODOT's Significantly

CEQ Regulations

40 CFR 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

- (a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. **The following should be considered in evaluating intensity:** (emphasis added)

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

2. The degree to which the proposed action affects public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. (emphasis added)

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial. (emphasis added)

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. (emphasis added)

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources. (emphasis added)

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. (emphasis added)

[43 FR 56003, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1*. Significantly. Pgs 126 - 127. Prepared by ODOT Environmental Services. Salem, OR. http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

Significantly

The CEQ regulations (40 CFR 1508.27) state that two main points should be considered in determining significance: context and intensity.

Impacts can be considered in the context of society as a whole, the affected region, or locality. In the case of a site-specific action, significance would usually depend on the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

For example, filling one acre of a one hundred-acre wetland probably could be considered not significant, but filling one acre of a two-acre wetland may be considered, under certain circumstances, a significant impact. The intensity is the same, but the context is different.

Factors to consider regarding intensity or severity of impacts include: (1) impacts that may be both beneficial and adverse; (2) the degree to which the proposed action affects public health or safety; **(3) unique characteristics of the geographical area; (4) the degree to which the effects on the quality of the human environment are likely to be highly controversial;** (5) the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; **(6) the degree to which the action may establish a precedent for future actions with significant effects;** (7) whether the action is related to other actions with individually insignificant but cumulatively significant impacts; and **(8) the degree to which the action may adversely affect resources listed in or eligible for listing in the National Register of Historic Places;** (9) the degree to which the action may adversely affect an endangered or threatened species or its habitat; and **(10) whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.** (emphasis added)

Appendix I. ODOT Nation Trails Systems Act & National Historic Preservation Act

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1.* Nation Trails Systems Act. Page 123. Prepared by ODOT Environmental Services. Salem, OR.

http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

Nation Trails Systems Act

Institutes a national system of recreation, scenic and historic trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system. Congress recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's trails, in recognition of these contributions, it is further the purpose of this Act to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management, where appropriate, of trails.

Oregon Department of Transportation. May 2002. *Draft Environmental Procedures Manual Volume 1.* National Historic Preservation Act. Page 123. Prepared by ODOT Environmental Services. Salem, OR.

http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/docs/Env_Procedures_Manual_Vol-1.pdf?ga=t

National Historic Preservation Act

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to:

- (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
- (2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;
- (3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;
- (4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;
- (5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and
- (6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.