

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

Field Trip Meeting Between ODOT & Hugo Emigrant Trails Committee



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

Final for Review May 18, 2012

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

Field Trip Meeting Between ODOT & Hugo Emigrant Trails Committee

Outline

- I. PURPOSE & AGENDA
- II. PARTICIPANTS
 - A. Meeting Participants
 - B. Interested Agencies & Organizations
- III. ODOT PRESENTATIONS
 - A. Project Overview & New Cut-Slope Staking
 - B. NEPA Overview
 - C. Cultural Resource Overview
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
 - D. Project Footprint At Mt. Sexton Pass
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
- IV. HETC APPLGATE TRAIL INVENTORIES
 - A. February 1, 2012 Meeting Between ODOT & HNA&HS
 - B. May 1, 2012 ODOT & HNA&HS Field Trip
- V. HETC ISSUES
 - A. Partnering with ODOT
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
 - B. Applegate National Historic Trail Needs Protection
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
 - C. Substantial Evidence That *1,060' Applegate Trail I North Sexton Pass I-5 East* Road Is Location Of Original Applegate Trail: 1853 -1855
 - D. Public Involvement Fuzzy To Inadequate
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
 - E. NEPA Compliance Process For Archeological & Historical Impacts Is Conclusory

- F. Archeological And Historical Inventory and Impact Documents Are Confidential & Not Available To The Public
- G. SHPO's Cultural Resource Documents Do Not Exist To Civic Minded Publics
- H. ODOT Has Not Provided Specific Written Feedback to HETC
 - 1. February 1, 2012 Meeting Between ODOT & HNA&HS
 - 2. May 1, 2012 ODOT & HNA&HS Field Trip
- I. Is A CE The Appropriate Environmental Documentation?

VI. ODOT & HETC AGREEMENTS

- A. February 1, 2012 Meeting Between ODOT & HNA&HS
- B. May 1, 2012 ODOT & HNA&HS Field Trip

VII. REQUESTS

- A. February 1, 2012 Meeting Between ODOT & HNA&HS
- B. May 1, 2012 ODOT & HNA&HS Field Trip

VIII. MINUTES PREPARED BY HETC

- A. February 1, 2012 Meeting Between ODOT & HNA&HS
- B. May 1, 2012 ODOT & HNA&HS Field Trip

Maps

The following maps and aerial photos are web published at
http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm.

- Map 1. 1.8 Mile Applegate Trail At Smith Hill Pass From JA-14 To JA-16: 1901 - 1902
- Map 2. Telegraph Lines At Old Smith Homestead Smith Hill Pass: 1940
- Map 3. Telegraph Lines South Of Smith Hill Pass: 1940
- Map 4. 310' Segment of Applegate Trail at Mt. Sexton Pass: 1998
- Map 5. Telegraph Lines At Applegate Trail I North Sexton Pass I-5 East: 1940
 - New Access/Fire I-5 Road (200')
 - Applegate Trail I (ATI) For North Sexton Pass I-5 East (1,060')
 - Applegate Trail II (ATII) For North Sexton Pass I-5 East (1,300')
- Map 6. Telegraph Lines At Applegate Trail North Sexton Pass I-5 West: 1940
 - Applegate Trail III (ATIII) For North Sexton Pass I-5 East (1,853')
 - North Sexton Pass Under - 250'
 - North Sexton Pass I-5 West - 440'

- Map 7. Applegate Trail At Sexton Pass: 1998
 New Access/Fire I-5 Road (200')
 Applegate Trail I (ATI) For North Sexton Pass I-5 East (1,060')
 Applegate Trail II (ATII) For North Sexton Pass I-5 East (1,300')
 Applegate Trail III (ATIII) For North Sexton Pass I-5 East (1,853')
 North Sexton Pass Under (250')
 North Sexton Pass I-5 West (440')
- Map 8. 1874 Josephine County's First Surveyed Road
- Map 9. 1874 Josephine County Road & 1998 Maple Creek

Aerial Photographs

- Aerial 1. Smith Hill Pass: 1939
- Aerial 2. Sexton Mountain Pass Region: 1959
- Aerial 3. Applegate Trail North Sexton Pass: 2011

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
1. February 1, 2012 Meeting Between ODOT & HNA&HS
 2. May 1, 2012 ODOT & HNA&HS Field Trip
- Appendix H. ODOT Significantly
- Appendix I. ODOT Nation Trails Systems Act & National Historic Preservation Act
- Appendix J. Draft Executive Summary Of Paper: "*United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*"

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

These meeting minutes of the May 1, 2012 field trip between members of ODOT and members of the HETC were developed, edited, and approved by the six participating members of the HETC and Jim and Rene Ford, members of HETC, on May 14, 2012.

Jim Ford, Member, GLO SubCommittee, HETC
Rene Ford, Member, GLO SubCommittee, HETC
Larry McStravog, Member HNA&HS
Joe Neiderheiser, Member, GLO SubCommittee, HETC
Boyd Peters, Member of LLP
Kelly Rarey, Member, GLO SubCommittee, HETC
Ann Southcombe Member of LLP & HNA&HS
Mike Walker, Co-Project Leader, HETC

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

I. PURPOSE & AGENDA

Representatives of the Oregon Department of Transportation (ODOT) and the Hugo Emigrant Trails Committee (HETC), Hugo Neighborhood Association & Historical Society (HNA&HS), had scheduled a 10:00 a.m. May 1, 2012 Field Trip to the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed (reference ODOT “I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project”).

ODOT Response: Analysis and conclusions completed by Southern Oregon University on behalf of ODOT differ from the HETC’s claim that the 1060’ section adjacent to the northbound lanes of I-5 just north of the Sexton Pass summit can be definitively identified as part of the Applegate Trail. ODOT considers HETC’s reference to this section throughout this document as “Applegate Trail” to be inconclusive. However, ODOT is still trying to minimize impacts to this area, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

The purpose of the meeting was for ODOT to provide an understanding of the impacts of ODOT’s “I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project” by showing the group the new cut-slope staking for the project.

The HNA&HS was looking forward to the field trip and the joint discussion/presentation of the new cut-slope staking for the *Sexton Climbing Lane Project* and what the HNA&HS considered was bulletproof research that the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed was the original location of the Applegate Trail, and with a Class @ Used *Trail* classification was a significant history resource.

The application of the Oregon-California Trail Association’s (OCTA) “Cardinal Rules” as they relate to the substantial physical and written Applegate Trail (*Trail*) documentation was considered conclusive evidence by the HETC for the classifications of three *Trail* sites and two *Trail* segments at the Sexton Mt. Pass. 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 @ Used *Trail* to a Class @ Verified Altered *Trail*. Significant was the Class @ Used *Trail* classification for the 1,060' *Trail* I North Sexton Pass I-5 East roadbed.

II. PARTICIPANTS

A. Meeting Participants

There were eight participants at the meeting.

Jim Collins, Environmental Manager, ODOT Region 3
Sam Dunnivant, Environmental Coordinator, ODOT Region 3
Larry McStravog, Member HNA&HS
Joe Neiderheiser, Member, GLO SubCommittee, HETC

Boyd Peters, Member of LLP
Kelly Rarey, Member, GLO SubCommittee, HETC
Ann Southcombe Member of LLP & HNA&HS
Mike Walker, Co-Project Leader, HETC

B. Interested Agencies & Organizations

The following entities had been previously identified by HETC in the February 1, 2012 meeting minutes between ODOT and HNA&HS at White City, Oregon meeting as the known lead and cooperating agencies, and the interested agencies, organizations, and groups (http://www.hugoneighborhood.org/MEETING_MINUTES_Between_ODOT_and_HNAHS_020112.pdf).

- 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)

II. ODOT PRESENTATIONS

The history of ODOT'S I-5 Glendale to Hugo Paving & Sexton Climbing Lane Project with the HNA&HS is summarized at Hugo's web page at http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm.

A. Project Overview & New Cut-Slope Staking

A project description of the *I-5 Glendale to Hugo Paving and Sexton Climbing Lane Project* had been previously provided by Mark Leedom, Project Manager, ODOT, to members of the HNA&HS at a February 1, 2012 meeting in White City, Oregon (http://www.hugoneighborhood.org/MEETING_MINUTES_Between_ODOT_and_HNAHS_020112.pdf).

Sam Dunnivant, Environmental Coordinator, ODOT, provided an history of the new cut-slope staking for the *Sexton Climbing Lane Project* since ODOT's February 1, 2012 with the HNA&HS. He stated that the design of the project cut-slope had been redesigned several times reducing the destruction of the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed from approximately 800' to approximately 150'.

B. NEPA Overview

At the February 1, 2012 meeting in White City, Oregon Sam Dunnivant, Environmental Coordinator, ODOT, had provided an overview of the categorical exclusion (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

1. February 1, 2012 meeting Between ODOT & HNA&HS Jessica Bochart-Leusch, Archaeologist, ODOT, had 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).

Bochart-Leusch'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 Response: A number of Applegate Trail segments were identified adjacent to the project through the survey conducted by Southern Oregon University. These have been shown in the contract plans as "No Work Areas". In addition, ODOT is still trying to minimize impacts to the HETC's area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

ODOT provided a copy of the Southern Oregon University cultural resources report applicable to the project. All sensitive site specific information had been redacted or removed and the version provided is a public document. The HETC thanks the ODOT for this document.

2. May 1, 2012 ODOT & HNA&HS Field Trip Jim Collins, Environmental Manager, ODOT Region 3, indicated that ODOT would abide by the SHPO's evaluation of the non-significance of the cultural resources at the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed.

Sam Dunnivant, Environmental Coordinator, ODOT, provided information about the cultural resources inventories prepared for this section of the project. The SHPO confidential cultural resource inventories by the Southern Oregon University (SOU) were the basis for the ODOT's position. The confidential inventory had not changed from the February 1, 2012 overview provided by Jessica Bochart-Leusch, Archaeologist, ODOT. ODOT's conclusion based on the SOU report was that the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed was not significant.

Jim Collins further stated that ODOT was not going to question the SOU report nor SHPO's evaluation that the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed was not a significant historic resource as the ODOT were not the cultural resource experts. Members of the HETC challenged that position with the opinion that ODOT, not the SOU or the SHPO was the managing agency for the passing lane project and the CE process. They further pointed out that the HETC's position on significance was influenced by its survey work (i.e., GLO surveys, 1874

county road survey, and 1940 Oregon Highway Department survey) and that cultural resource experts were not necessarily survey experts. The HETC felt that ODOT engineers were probably more qualified than cultural resource experts to quality control the HETC's research and Applegate Trail survey inventories. Jim Collins pointed out that the Federal Highway Administration (FHA) was the final decision-maker on the project and the CE process, not the ODOT

D. Project Footprint At Mt. Sexton Pass

1. February 1, 2012 meeting Between ODOT & HNA&HS The three members of the HETC reviewed ODOT's 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.

Not clear to the participants from the aerial photo was the location of the cut slope 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 roadbed would be impacted by the project. If true, the HETC felt the project will significantly affect the Applegate National Historic Trail, a branch of the significant California National Historic Trail (Section V.B).

A potential issue per a previous email could be impacts from the paving project 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).

ODOT Response: The 1921-1922 Pacific Highway is being analyzed as a part of this project. However, the report for that resource is a separate report than what was completed for the Applegate Trail. All of these resources are being grouped together by ODOT to complete a project-level Section 106 Finding.

2. May 1, 2012 ODOT & HNA&HS Field Trip Since the 1,060' Applegate Trail I For North Sexton Pass I-5 East roadbed was not considered significant by ODOT, the HETC felt that ODOT went out of its way in terms of trying to make the HNA&HS "happy" (ODOT's description).

The HETC and HNA&HS feel grateful that the ODOT greatly reduced its footprint on what it felt was a significant historic resource (i.e, original location of the Applegate Trail).

IV. HETC APPLGATE TRAIL INVENTORIES

A. February 1, 2012 meeting Between ODOT & HNA&HS

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 @ Used Trail to a Class @ Verified Altered Trail.

Trail Site Or Segment

Trail Classification

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

B. May 1, 2012 ODOT & HNA&HS Field Trip

The HNA&HS and the Josephine County Historical Society finalized their *Telegraph Lines and Applegate Trail at Smith Hill Pass* paper on February 22, 2012. They informed ODOT of the paper and that it was web published.

The HETC also reference additional on-going research on the *United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*. The HETC felt this research was significant as it proved the Applegate Trail at Grave Creek Hills was an improved military road whose purpose was also for the fall emigrants to the Willamette Valley, and like the Barlow Road of the Oregon Trail could still command acknowledgment of historical significance (Appendix J).

The United States military wagon road from Myrtle Creek to Camp Stewart from 1853 to 1880 was the emigrant Applegate Trail from 1846 - 1853. It officially became a military road assigned to the U.S. War Department in 1853 by an act of Congress. The purpose of the U.S. "Military Wagon Road From Myrtle Creek to Camp Stewart" from 1853 through 1880 was officially for the military. However, regardless of this ostensible purpose, the real goal of road improvement was to attract civilian populations and to aid indirectly in the development of the agricultural, timber, and mineral resources of the territory. The Secretary of War, Jefferson Davis wrote in his "Report of the Secretary of War, War Department, Washington, December 1, 1853, which accompanied the annual message of the President of the United States, to both houses of the Congress" the following.

"Contracts have been made for the continuation of roads in Minnesota agreeable, agreeable to the act of January 7, 1853, making appropriations therefore. An act of the same date directs construction of two military roads in Oregon. Each of these was placed in charge of a competent officer, with instructions (copies of which are annexed) to locate and mark the line of the road as speedily as possible, and so direct his operations as to secure a practical wagon road for the benefit of the **fall emigrants** and other travel. The commencement of one of these works was delayed by the difficulty of the Rogue River Indians; but a contract was made for rendering the other, from Walla Walla to Steilacom,

passable by the 15th of October last, and it is presumed its conditions have been fulfilled.” (emphasis added)

V. HETC ISSUES

A. Partnering with ODOT

1. February 1, 2012 meeting Between ODOT & HNA&HS 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 February 1, 2012 meeting with representatives of the HETC.

2. May 1, 2012 ODOT & HNA&HS Field Trip This feeling of goodwill was continued at the May 1, 2012 field trip. Even though the “black hole” problem of the SHPO archives was exacerbated as there was zero public documented communication or analysis available to the HETC concerning its Applegate Trail issues. The members still felt like the ODOT representative were sincerely trying to share data within the SHPO confidentiality ban on sharing information. ODOT Response: ODOT has had ongoing communications with the HETC. That is documented communication with the public regarding Applegate Trail concerns.

B. Applegate National Historic Trail Needs Protection

1. February 1, 2012 meeting Between ODOT & HNA&HS 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.

ODOT Response: The eligibility criteria has no bearing on whether ODOT recognizes the importance of the Applegate Trail. ODOT has created numerous “No Work Zones” specifically to avoid impacts to the Applegate Trail. This points directly to ODOT’s recognition of the 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.

ODOT Response: The 1921-1922 Pacific Highway is being analyzed as a part of this project. Entire sections of this highway exist, and can be easily seen in several places. However, the report for that resource is a separate report than what was completed for the Applegate Trail. All of these resources are being grouped together by ODOT to complete a project-level Section 106 Finding.

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

2. May 1, 2012 ODOT & HNA&HS Field Trip The HETC’s web published research and inventories, including the finalized *Telegraph Lines and Applegate Trail at Smith Hill Pass* paper have intensified its position that the 1,060’ Applegate Trail I North Sexton Pass I-5 East roadbed is the original location of the Applegate Trail and that it a Class 2 *Trail* classification was a significant history resource.

The application of the Oregon-California Trail Association’s (OCTA) “Cardinal Rules” as they relate to the substantial physical and written Applegate Trail (*Trail*) documentation was considered conclusive evidence by the HETC for the classifications of three *Trail* sites and two *Trail* segments at the Sexton Mt. Pass. 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 @ Used Trail to a Class @ Verified Altered Trail. Significantly was the Class @ Used Trail classification for the 1,060’ *Trail* I North Sexton Pass I-5 East roadbed.

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

February 1, 2012 meeting Between ODOT & HNA&HS The HNA&HS feels there is substantial evidence in the CE record 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 was the military road from 1853 - 1880 and the emigrant *Trail* at the same time. 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.

D. Public Involvement Fuzzy To Inadequate

1. February 1, 2012 meeting Between ODOT & HNA&HS 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.

ODOT Response: The Categorical Exclusion document has not yet been completed. That document will be sent to you once it is available. We have shared with the HETC, as well as other interested groups, the information that we have available at this time (except for site-specific information for cultural resources that we are not allowed to share based on confidentiality requirements from SHPO).

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.

ODOT Response: Since 2010, the Oregon Department of Transportation has altered geotechnical drilling plans, conducted an additional resource-specific archaeological Survey (specific to the Applegate Trail), and altered the project design based on public input.

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?

2. May 1, 2012 ODOT & HNA&HS Field Trip Boyd Peters, Member, Legacy Lands Project, felt like the CE process lacked transparency. As the Glendale to Jumpoff Joe project planning has progressed the state and federal officials have assured interested locals a CE planning document would be sufficient. We have questioned a CE's adequacy repeatedly, in part, regarding public involvement and agency transparency. Many of our questions remain unanswered.

Before a CE becomes final, when will the public be given an opportunity to comment upon a draft CE? If there will be no opportunity for comment state why.

Specifically, Legacy Lands Project would like to **see site design** features resulting from ODFW's Wildlife Report submitted by Simon Wray. **He visited the area** January 18, 2011 and produced a document titled: (Draft) I-5 Glendale to Jumpoff Joe Wildlife Passage Assessment and Recommendations. O.K. if applicable - north Sexton Mt. Passing Lane ends just north of the 1.060' segment of the Applegate Trail.

ODOT Response: The Oregon Department of Transportation sent this Wildlife Crossing information to Boyd Peters of Legacy Land Project in Mid-May 2012. Additional resource documentation was also sent to Boyd Peters upon request in Mid-May 2012.

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 Response: The Oregon Department of Transportation stated only that information regarding the specific locations of cultural sites is confidential, based on requirements from the State Historic Preservation Office. A copy of the Finding of Effect for Cultural Resources will be

shared with the HNA&HS once it has been drafted. ODOT did not mention anything about NEPA documents being confidential.

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.

ODOT Response: ODOT will send the HETC the Project Level Section 106 Finding of Effect document once it has been written.

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.

ODOT Response: In this section, the HETC addresses processes that are outside the control of ODOT and seem to be issues between SHPO, HETC and OCTA. ODOT cannot comment on any issues that the HETC has with SHPO, but will continue to work within the regulatory guidelines and policies we are provided.

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

1. February 1, 2012 meeting Between ODOT & HNA&HS 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.

ODOT Response: This document and all previous communication with HETC constitutes meaningful public participation and questioning of our conclusions.

2. **May 1, 2012 ODOT & HNA&HS Field Trip** Boyd Peters, Member, Legacy Lands Project, and Mike Walker, Co-Project Leader, Hugo Emigrant Trails Committee, felt like the CE process lacked transparency (see previous).

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?

ODOT Response: To date, the environmental studies that ODOT has conducted have proved that the impacts from this project will not result in anything that would reach the level where the project would require an EA or EIS. Here is a discipline-by-discipline summary of the impacts for this project:

Right of Way- The entire project will take place on ODOT Right of Way. No additional Right of Way is needed for this project.

Riparian Impacts- A Riparian Landscape Permit was obtained from the Josephine County Planning Department for impacts to Bummer Creek. All riparian trees impacted surrounding Bummer Creek will be re-planted at a 2:1 ratio.

Wetlands- The northbound Sexton Climbing Lane will impact 0.17 acres of wetlands, as well as minor impacts to "waters". Thus, ODOT has obtained a permit from the Oregon Department of State Lands for these impacts. In addition, we are obtaining a permit from the US Army Corps of Engineers for these impacts. We will be mitigating for these impacts via ODOT's Vernal Pool Mitigation Bank in the Rogue Valley.

Water Quality- The proposed climbing lane will result in 0.96 acres of new impervious surface. A water quality swale and water quality check dams will be constructed to treat runoff associated with this project. A biofiltration mix (a composite mixture of soil and organic material) will be placed in between each check dam to remove the pollutants of concern. The water quality swale will be placed at the southern end of the project area.

Rare Plants- A series of rare plant surveys were conducted in Spring 2010. No ESA-listed threatened or endangered species were found.

ESA for Wildlife- Northern Spotted Owl habitat is located close to portions of Interstate 5 through sections of the project corridor. Northern Spotted Owls are federally listed as a "threatened" species. A "Not Likely to Adversely Affect" Biological Assessment was completed for this project in February 2012. ODOT received a Letter of Concurrence from the US Fish & Wildlife Service on April 11, 2012. No other threatened or endangered wildlife species will be impacted by this project.

ESA for Fish- The northbound climbing lane over Mt. Sexton will have impacts to the headwaters of Bummer Creek. The existing culvert will be extended 28 feet to the east. However, ODFW concurred that this is upstream from fish presence. Thus, ODFW did not require fish passage at this location. ESA is being addressed for Southern Oregon / Northern California coho salmon (a federally "threatened" species) with the SLOPES IV Programmatic Biological Opinion.

Archaeological Resources- This project is not expected to have any archaeological impacts. An archaeological survey was conducted throughout the entire project corridor by the Oregon State Museum of Anthropology in 2010. In addition, in 2011, Southern Oregon University conducted a separate survey and comprehensive study of the Applegate Trail throughout the project corridor. Numerous sites were identified adjacent to the roadway prism. However, all archaeological resources will be avoided by the establishment of "No Work Zones". There is also one additional area of concern to the Hugo Emigrant Trails Committee. The project design in this area is being modified to minimize impacts as much as possible, or even to eliminate impacts altogether.

Historic Resources- Remnants of the 1921-1923 Old Highway 99 runs parallel to Interstate 5 throughout a portion of the project corridor. This is sometimes known as the Sexton Mt. Frontage Road in this area. ODOT's Historian conducted a comprehensive study and inventory of this resource. A portion of the Sexton Frontage Road at the bottom of the hill will be slightly realigned as part of this project. However, that portion is not part of the 1921-1923 Old Highway 99.

Noise- A Noise Study was completed for this project in October 2011. Based on the outcome of that report, no noticeable changes in noise levels will result from the completion of this project. Thus, no Noise Mitigation was necessary for this project.

Tribal Coordination- ODOT has been in constant contact with three Native American tribes regarding this project. None of the tribal "areas of concern" will be impacted by this project.

Hazardous Materials- A Hazardous Materials Corridor Assessment was completed throughout the project corridor in 2009. Hazardous Materials risk for the project was found to be "low". Based on the results of that report, no additional Hazardous Materials review was necessary for this project.

In addition, some public information has been made available to the public. Due to this information, the HETC is satisfied that other sections of the Applegate Trail will be avoided. It is also due to public information that the HETC has concerns regarding one location.

VI. ODOT & HETC AGREEMENTS

A. February 1, 2012 meeting Between ODOT & HNA&HS

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 HETC felt 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? However, ODOT did not make comments on the draft minutes by the end of the editing period on February 15, 2012 (see Section VIII). It acknowledged receipt of the information the HETC provided, but it did not provide a public analysis of the significance of this information.

ODOT Response: ODOT is still trying to minimize impacts to the HETC's area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

In addition, ODOT responded to the HETC on February 14, 2012 stating that the February 15, 2012 deadline given by the HETC was not possible. ODOT did, however, respond on February 27, 2012.

B. May 1, 2012 ODOT & HNA&HS Field Trip

During the field trip the ODOT representatives explained ODOT's approach to mitigation measures (Appendix G). 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).

The ODOT representatives' (i.e., Jim Collins, Environmental Manager, ODOT Region 3 and Sam Dunnivant, Environmental Coordinator, ODOT Region 3) 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 (Section II.C.). Therefore, it was not required to mitigate any adverse impacts, significant or otherwise to the *1,060' Applegate Trail I North Sexton Pass I-5 East* roadbed.

ODOT Response: The reason that no Applegate Trail resources are being impacted by the project is because we will be avoiding all impacts to that resource through the use of "No Work Zones". ODOT is still trying to minimize impacts to the HETC's area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

However, both the ODOT representatives stated that regardless of whether ODOT was required to mitigate impacts to the roadbed, it was just good business to do so if possible. Therefore, in light of the HETC's concerns it redesigned the project cut-slope several times reducing the destruction of the roadbed of the *1,060' Applegate Trail I North Sexton Pass I-5 East* roadbed from approximately 800' to approximately 150'. The representatives shared a mitigating measure that would go with the upper cut-slope boundary line.

ODOT's Committed Mitigation Measure [(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation]: There would be a "*No Work Zone*" uphill of the redesigned of the project cut-slope line. The cut-slope line, and, therefore, the "*No Work Zone*" would be identified on the ground by an orange plastic barrier fence during the construction of the "*I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project*".

ODOT Response: The above commitment by ODOT is not a "mitigation measure". ODOT is not required to mitigate for anything at this location. The above measure is an act of goodwill by ODOT that we have agreed to do in order to minimize impacts throughout the area of concern to the HETC.

The ODOT representatives also stated that ODOT had considered the mitigation of “(a) *Avoiding the impact altogether by not taking a certain action or parts of an action.*”, except that it would cost millions to move the cut-slope line (i.e., retaining walls) for the approximately 150' of the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed impacted.

ODOT Response: ODOT did not mention a dollar amount for a retaining wall at this location.

The ODOT representatives were asked about its intentions to manage the remainder of the 1,060' Applegate Trail I North Sexton Pass I-5 East roadbed for the erosion that was taking place. The

ODOT would not be managing the roadbed, but would entertain the HETC coming forward with requests to provide waterbars and/or other erosion measures.

The HETC agreed with ODOT and felt that, because of the cost of retaining walls, that it was not reasonable to ask for a redesign of the passing land project to “(a) Avoiding the impact altogether by not taking a certain action or parts of an action.” However, the HETC was interested in the mitigation of “[e] Compensating for the impact by replacing or providing substitute resources or environments (40 CFR Sec. 1508.20)] by preserving the *1,060' Applegate Trail I North Sexton Pass I-5 East* roadbed through research and documentation. For the HETC this meant the following (Appendix G).

ODOT Response to the following: Thank you for these suggested enhancements to our project. We will consider these as our project progresses. However, ODOT is still trying to minimize impacts to the HETC’s area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

1. Research and field work leading to an archaeological roadbed survey by a professional archeologist. “Professionals” must meet the architectural historian qualifications outlined by the federal government in 36 CFR 61.
2. Analysis and interpretation in an intensive-level historic survey by a professional archeologist (36 CFR 61), including photographic and metal detection documentation.
3. Interpretative signing along the old Applegate Trail at the I-5 crossing (i.e., like what is presently at the northbound lane of Merlin Hill north of Grants Pass, Oregon).
4. Off-Site Mitigation: An interpretive *Applegate Trail* kiosk on the old Pacific Highway at Sexton Mountain Pass.
5. Off-Site Mitigation: An interpretive *Applegate Trail* kiosk at the East Manzanita I-5 Rest Area.

VII. REQUESTS

A. February 1, 2012 meeting Between ODOT & HNA&HS

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.

ODOT Response: The HECT is already on the list.

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.

ODOT Response: ODOT is still trying to minimize impacts to the HETC’s area of concern, or

even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

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?

ODOT Response: ODOT met with HETC on May 1, 2012 to go over this cut slope in the field. ODOT is still trying to minimize impacts to the HETC's area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

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?

ODOT Response: ODOT went over this in the field with the HETC on May 1, 2012. The "No Work Zone" will be delineated with orange construction fencing.

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?

ODOT Response: The paving portion of the project will be paid for with \$36.5 million of Interstate Maintenance funds. The passing lane will be paid for with a Jobs in Transportation Act (JTA) earmark of \$10 million. In addition, the project will include \$3.2 million in Safety & Operations for roadway superelevation corrections, etc.

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?

ODOT Response: Tentatively in August 2012

6. What is the FHWA contact information for the CE NEPA compliance determination?

ODOT Response: Chris Bucher, Operations Engineer, Oregon Division- FHWA, 530 Center St. NE, Suite 420, Salem, OR 97301 Telephone: (503)-316-2555

7. What was the Oregon law that authorized the six passing lanes?

ODOT Response: The Jobs and Transportation Act (House Bill 2001). The Interstate 5 Sexton Climbing lanes project is an earmark project included in the bill.

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.

ODOT Response: ODOT will send this to the HETC as a separate document.

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).

ODOT Response: The project utilizes federal funding and must operate under stipulations of the National Historic Preservation Act. Anything else would be out of compliance. State law closely follows the spirit of the NHPA, but without the same clout. ODOT has followed the Section 106 process for identifying historic resources.

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?

ODOT Response: To date, the environmental studies that ODOT has conducted have proved that the impacts from this project will not result in anything that would reach the level where the project would require an EA or EIS. Here is a discipline-by-discipline summary of the impacts for this project:

Right of Way- The entire project will take place on ODOT Right of Way. No additional Right of Way is needed for this project.

Riparian Impacts- A Riparian Landscape Permit was obtained from the Josephine County Planning Department for impacts to Bummer Creek. All riparian trees impacted surrounding Bummer Creek will be re-planted at a 2:1 ratio.

Wetlands- The northbound Sexton Climbing Lane will impact 0.17 acres of wetlands, as well as minor impacts to "waters". Thus, ODOT has obtained a permit from the Oregon Department of State Lands for these impacts. In addition, we are obtaining a permit from the US Army Corps of Engineers for these impacts. We will be mitigating for these impacts via ODOT's Vernal Pool Mitigation Bank in the Rogue Valley.

Water Quality- The proposed climbing lane will result in 0.96 acres of new impervious surface. A water quality swale and water quality check dams will be constructed to treat runoff associated with this project. A biofiltration mix (a composite mixture of soil and organic material) will be placed in between each check dam to remove the pollutants of concern. The water quality swale will be placed at the southern end of the project area.

Rare Plants- A series of rare plant surveys were conducted in Spring 2010. No ESA-listed threatened or endangered species were found.

ESA for Wildlife- Northern Spotted Owl habitat is located close to portions of Interstate 5 through sections of the project corridor. Northern Spotted Owls are federally listed as a "threatened" species. A "Not Likely to Adversely Affect" Biological Assessment was completed for this project in February 2012. ODOT received a Letter of Concurrence from the US Fish & Wildlife Service on April 11, 2012. No other threatened or endangered wildlife species will be impacted by this project.

ESA for Fish- The northbound climbing lane over Mt. Sexton will have impacts to the headwaters of Bummer Creek. The existing culvert will be extended 28 feet to the east. However, ODFW concurred that this is upstream from fish presence. Thus, ODFW did not require fish passage at this location. ESA is being addressed for Southern Oregon / Northern California coho salmon (a federally "threatened" species) with the SLOPES IV Programmatic Biological Opinion.

Archaeological Resources- This project is not expected to have any archaeological impacts. An archaeological survey was conducted throughout the entire project corridor by the Oregon State Museum of Anthropology in 2010. In addition, in 2011, Southern Oregon University conducted a separate survey and comprehensive study of the Applegate Trail throughout the project corridor. Numerous sites were identified adjacent to the roadway prism. However, all archaeological resources will be avoided by the establishment of "No Work Zones". There is also one additional area of concern to the Hugo Emigrant Trails Committee. The project design in this area is being modified to minimize impacts as much as possible, or even to eliminate impacts altogether.

Historic Resources- Remnants of the 1921-1923 Old Highway 99 runs parallel to Interstate 5 throughout a portion of the project corridor. This is sometimes known as the Sexton Mt. Frontage Road in this area. ODOT's Historian conducted a comprehensive study and inventory of this resource. A portion of the Sexton Frontage Road at the bottom of the hill will be slightly realigned as part of this project. However, that portion is not part of the 1921-1923 Old Highway 99.

Noise- A Noise Study was completed for this project in October 2011. Based on the outcome of that report, no noticeable changes in noise levels will result from the completion of this project. Thus, no Noise Mitigation was necessary for this project.

Tribal Coordination- ODOT has been in constant contact with three Native American tribes regarding this project. None of the tribal "areas of concern" will be impacted by this project.

Hazardous Materials- A Hazardous Materials Corridor Assessment was completed throughout the project corridor in 2009. Hazardous Materials risk for the project was found to be "low". Based on the results of that report, no additional Hazardous Materials review was necessary for this project.

11. How is Section 4(f) being applied to the project (23 CFR Sec. 771.135)?

ODOT Response: ODOT has inventoried all potential Section 4(f) properties within the API. ODOT has identified several historic resources. However, based on current information, none of the historic resources will be used; therefore, the project will have no Section 4f use.

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? Yes, the site-sensitive information has been removed. And, yes, in this format, the report would be considered a public document.

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.

ODOT Response: If significant impacts are identified during the CE process, ODOT and FHWA would begin the EIS process. Up to this point, environmental analysis indicates that none of the impacts from the proposed project are near a level that would be considered significant. Our response to a previous question provides the basis (by resource) for our current assessment of impacts and their significance.

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.

ODOT Response: ODOT and the HETC had a follow-up meeting on site on May 1, 2012. In addition, ODOT is still trying to minimize impacts to the HETC’s area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

B. May 1, 2012 ODOT & HNA&HS Field Trip

The HETC requests that ODOT respond in writing to its written information requests.

ODOT Response: ODOT did provide a previous response on February 27, 2012.

VIII. MINUTES PREPARED BY HETC

A. February 1, 2012 meeting Between ODOT & HNA&HS

The 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. However, ODOT did not provide comments on the February 6, 2012 minutes.

ODOT Response: Yes, an email was sent from ODOT to Mike Walker, HETC on February 14, 2012 stating that the February 15, 2012 deadline was not reasonable and that we would respond in a timely manner. We subsequently responded on February 27, 2012.

B. May 1, 2012 ODOT & HNA&HS Field Trip

These meeting minutes of the May 1, 2012 field trip between members of ODOT and members of the HETC were developed, edited, and approved by the six participating members of the HETC and Jim and Rene Ford, members of HETC, on **May 18, 2012**.

Jim Ford, Member, GLO SubCommittee, HETC
Rene Ford, Member, GLO SubCommittee, HETC
Larry McStravog, Member HNA&HS
Joe Neiderheiser, Member, GLO SubCommittee, HETC
Boyd Peters, Member of LLP
Kelly Rarey, Member, GLO SubCommittee, HETC
Ann Southcombe Member of LLP & HNA&HS
Mike Walker, Co-Project Leader, HETC

Like the final minutes for the February 1, 2012 meeting, these minutes will be provided to ODOT for review and comments with an approximate **two week review and comment period through June 1, 2012**. The HETC is pleased to offer the ODOT the opportunity to review and comment on the minutes for the purpose of joint understanding and ownership. However, ODOT's history of non-responsiveness to written questions and summary statements to the HETC's comments and requests for information is frustrating to irresponsible.

ODOT Response: An email was sent back to the HETC from ODOT stating that the June 1st,

2012 deadline was unreasonable. However, ODOT did state that a response could be made by June 15, 2012.

Minutes distribution to Interested Agencies & Organizations (Section II.B) via email June 4, 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 J. Draft Executive Summary Of Paper: "*United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*"

Appendix A. ODOT December 7, 2011 Letter To Glenn Harrison, Chair, OHTAC
(web published at http://www.hugoneighborhood.org/ODOT_letter_to_Harrison_120711.pdf)

Appendix B. HNA&HS's Applegate Trail Inventories

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

HNA&HS's February 1, 2012 Meeting Letter (web published at http://www.hugoneighborhood.org/MEETING_LETTER_TO_ODOT_Trail_Classification_At_Pass_020112.pdf).

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.

Boling, Rarey, Rose, & Walker. February 22, 2012. *Telegraph Lines and Applegate Trail at Smith Hill Pass*. For Hugo Neighborhood Association & Historical Society & Josephine County 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/hugospioneerseriesbro.htm>).

HETC's Web Published Applegate Trail Inventories To Be Finalized

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

Hugo Applegate Trail Smith Hill Pass Group (i.e., Jean Boling, Jim Ford, Rene Ford, Joe Neiderheiser, Leta Neiderheiser, Kelly Rarey, Karen Rose, and Mike Walker). Draft April 1, 2012. *United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*. for Hugo Neighborhood Association & Historical Society & Josephine County Historical Society. Hugo, OR.

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

February 1, 2012 - May 1, 2012

May 1, 2012 ODOT & HNA&HS Field Trip Minutes at

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

December 7, 2011 - January 6, 2012 (see February 1, 2012 minutes of text for following, http://www.hugoneighborhood.org/miscellaneous_research_papers_and_documents.htm)

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

Appendix D. May 1, 2012 Field Trip Meeting Participants

There were eight participants on the field trip.

Jim Collins is the ODOT Region 3 Environmental Manager

Sam Dunnivant, Environmental Coordinator, ODOT

Larry McStravog, Member HNA&HS

Joe Neiderheiser, Member, GLO SubCommittee, HETC

Boyd Peters, Member of LLP

Kelly Rarey, Member, GLO SubCommittee, HETC

Ann Southcombe Member of LLP & HNA&HS

Mike Walker, Co-Project Leader, HETC

Jim Collins is the ODOT Region 3 Environmental Manager

Oregon Department of Transportation

3500 NW Stewart Parkway

Roseburg, Oregon 97470

541-957-3595

Email: James.D.Collins@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

3500 NW Stewart Parkway

Roseburg, Oregon 97470

541-957-3519 - Office

541-430-6863 - Cell

Email: Sam.K.DUNNAVANT@odot.state.or.us

Web Page: <http://www.oregon.gov/ODOT/HWY/REGION3/glendale-hugo1.shtml>

Joe Neiderheiser, Member

GLO Field Review SubCommittee

Hugo Emigrants Trails Committee

Hugo Neighborhood Association & Historical Society

279 Ridgefield Road

Grants Pass, OR 97527

541-862-9077

Cell 541-450-2020

Email: joeen36@frontier.com

Web Page: <http://www.hugoneighborhood.org/>

Boyd Peters, Member
Legacy Lands Project
800 Railroad Avenue
Wolf Creek, Oregon 97497
541-866-2596
Email: Boyd.wolfcreek@gmail.com

Larry McStravog, Member HNA&HS
201 Hitching Post Rd.
Grants Pass, Or. 97526
541-479-3684
Email: lnbranch@q.com
Web Page: <http://www.hugoneighborhood.org/>

Ann Southcombe, Member
Legacy Lands Project & HNA&HS
1250 Old Highway 99
Grants Pass, Oregon 97526
541-479-2101
Cell is 541-660-7675
Email: sulango@wildblue.net

Kelly Rarey, Member
GLO Field Review SubCommittee
Hugo Neighborhood Association & Historical Society
Hugo Neighborhood
275 Canyon Oak Drive
Grants Pass, Oregon 97526
541-471-0859
Email: Krarey@msn.com
Web Page: <http://www.hugoneighborhood.org/>

Mike Walker, Co-Project Leader
Hugo Emigrants 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/>

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

1. February 1, 2012 meeting Between ODOT & HNA&HS: 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

2. May 1, 2012 ODOT & HNA&HS Field Trip Mitigation Measures

The HETC agreed with ODOT on ODOT's cut-slope line mitigation measure.

ODOT's Committed Mitigation Measure [(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation]: There would be a "*No Work Zone*" uphill of the redesigned of the project cut-slope line. The cut-slope line, and, therefore, the "*No Work Zone*" would be identified on the ground by an orange plastic barrier fence during the construction of the "*I-5: Glendale to Hugo Paving & Sexton Climbing Lane Project*".

The HETC agreed with ODOT and felt that, because of the cost of retaining walls, that it was not reasonable to ask for a redesign of the passing lane project to “(a) Avoiding the impact altogether by not taking a certain action or parts of an action.” However, it did feel that the CEQ mitigation of [“(e) *Compensating for the impact by replacing or providing substitute resources or environments.*”(40 CFR 1508.20)] was reasonable. For the HETC this meant the following:

ODOT Response to the following: Thank you for these suggested enhancements to our project. We will consider these as our project progresses. However, ODOT is still trying to minimize impacts to the HETC’s area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

1. Research and field work leading to an archaeological roadbed survey by a professional archeologist. “Professionals” must meet the architectural historian qualifications outlined by the federal government in 36 CFR 61.
2. Analysis and interpretation in an intensive-level historic survey by a professional archeologist (36 CFR 61), including photographic and metal detection documentation.
3. Interpretative signing along the old Applegate Trail at the I-5 crossing (i.e., like what is presently at the northbound lane of Merlin Hill north of Grants Pass, Oregon).
4. Off-Site Mitigation: An interpretive *Applegate Trail* kiosk on the old Pacific Highway at Sexton Mountain Pass.
5. Off-Site Mitigation: An interpretive *Applegate Trail* kiosk at the East Manzanita I-5 Rest Area.

Further Mitigating Measures/Conditions Of Approval Considered by the HETC

Oregon is a land of great resources: hundred of miles of coastline, rivers and streams; tens of thousands of acres of timber; and hundreds of millions of dollars in nursery and agricultural products. Yet, one of our state’s most important resources, its cultural heritage, is threatened from pressures brought about by increased urbanization, a population influx, and economic development. The cultural resources that have come to symbolize our state’s heritage are finite and non-renewable; once lost, they are gone forever.¹

Every five years the Oregon State Historic Preservation Office (SHPO) develops a “Historic Preservation Plan” to guide statewide preservation activities for the coming years.² Physical preservation of historic properties is the core purpose of historic preservation. The present plan emphasizes using physical preservation options (rather than simply documentation) as mitigation for impacts to historic buildings and sites (Preservation Plan Objective 4.3 for the goal of increasing the number of high-quality preservation projects).

The ultimate goal of this assessment and the recommended conditions of approval is to provide a body of information to support Federal, State, and local efforts to manage the historic *Applegate Trail as a historic archaeological site*, with a sense of stewardship predicated upon the recognition of the importance of the trail to our county’s history.

Cultural resource compliance laws and regulations have provided much of what we know about Oregon’s archaeological sites. Here is how it works.

The *Applegate Trail* as an area in the path of proposed “ground-disturbing” activities by the private sector is surveyed, discovered sites are documented, and reports are written. This information is maintained by the SHPO. Josephine County uses this ever-expanding

collection of data to help it avoid impacts to known significant sites. When avoidance is not possible or feasible, then mitigation is undertaken to try to “compensate” for the loss.

This somewhat random, reactionary process for collecting information about historic archaeological resources is not especially conducive to comprehensive, scholarly investigation or to thoughtful preservation. Most of the information collected is descriptive rather than interpretive or analytical in nature, and there is usually neither the time nor money to follow up on the initial findings with more detailed analysis and interpretation.

A critical decision by the local land use hearing bodies is to protect or not protect the county’s significant historic archeological resources, especially the *Applegate Trail*. The *Applegate Trail* in the *Proposed Pioneer Meadow Subdivision* should be protected by not approving the application and by Josephine County being a co-sponsor of an application for this section of the *Applegate Trail* to be listed as a property on the National Register of Historic Places.

A listing on the National Register of Historic Places (NRHP) will help citizens of Josephine County know more about their cultural heritage and its value within contemporary society. One of the ways to best promote the social welfare of neighbors is by collecting, preserving, interpreting, and researching its rich local history, and encouraging neighbor’s interest in the history of the county, in their geographic place, and in their community. The quality of rural life in the county is enhanced through citizen knowledge of its history and the sense of community that a historical perspective facilitates. Culture, as one basis for a healthy community, can be an alternative to destructive behavior and a healing force, and children educated in their history and culture will contribute to the creative workforce of our evolving technological world. In the end, there will be the story of cultural growth and cultural impact. Children will see its impact on their learning. Families will see the effect of culture through their local participation and use of resources. Community development will see its impact economically and through greater social involvement and especially pride.

One definition of mitigation is defined as actions that reduce or compensate for the adverse or negative impacts an undertaking may have on a NRHP listed or eligible site. The appropriate mitigation measure depends on a number of factors, including the applicable criteria for NRHP eligibility, as well as the nature of the effects of a proposed project or undertaking. Whenever possible, the best alternative is to preserve the site in place and to protect it from damage. Mitigation of an adverse effect on an eligible archaeological or historic site can be accomplished through one or more of the following actions: avoidance of impact, preservation or protection in place with legal covenants if possible, burial after testing if found to be appropriate, or data recovery. The first recommended mitigative option is avoidance of impact through redesign of the project. While avoidance is a perfectly legitimate tool, it must be understood that avoidance, in and by itself, is not a protective measure. That is, avoiding direct impact on an archaeological site may result in secondary or indirect impacts (for example, construction of playground facilities adjacent to precontact village site).⁵

Protection or preservation is an active category of mitigation, something that is done to a site to protect it from any future adverse impact. Protection could involve development of the property

for public interpretation, security measures limiting public access, local ordinances providing city or county protection with penalties, and so forth. Data recovery is another appropriate means of mitigation of adverse effect for archaeological properties. Through data recovery, the information contained in the site (or the portion of the site to be adversely effected by a proposed activity), which gives it its significance, is removed prior to project construction and the adverse effect on the eligible site is compensated for the excavation results. The site's significance is no longer in the ground; it is in the records and collections being curated. When data recovery efforts are restricted to a portion of a significant site (e.g., remaining site portions are capped or avoided), the site remains significant after the mitigation has been completed.⁵

The following mitigating measures/conditions of approval are recommended for consideration by ODOT if the passing lane project destroys any of the 1,060' *Applegate Trail I North Sexton Pass I-5 East* roadbed.

ODOT Response to the following: Thank you for these suggested enhancements to our project. We will consider these as our project progresses. However, ODOT is still trying to minimize impacts to the HETC's area of concern, or even avoid this area altogether. ODOT will set up another site visit with the HETC in the very near future to go over the updated impact area.

1. Research and field work leading to an archaeological survey by a professional archeologist.³ "Professionals" must meet the architectural historian qualifications outlined by the federal government in 36 CFR 61.
2. Analysis and interpretation in an intensive-level historic survey by a professional archeologist (36 CFR 61), including photographic and metal detection documentation.³
3. Regardless of the cultural resource, all preservation procedures are based on prehistoric or historic context statements.¹ The intensive-level historic survey would include a discussion of the survey's relationship to existing local and statewide historic context statements and to periods of chronological development established by the SHPO. If no local historic context statement exists, contextual information must be prepared in conjunction with the survey.³⁻⁴
4. Conservation easements or preservation deed covenants are important tools to ensure long-term site protection for significant sites that can be wholly or partially preserved in-place.⁵ An educational item (i.e., preservation deed covenant) should be added for deeds containing segments of the *Applegate Trail* explaining the significance of the trail.
5. An public easement (i.e., conservation easement) and walking trail along the old Applegate Trail.⁵
6. Interpretative signing along the public easement and walking trail along the old Applegate Trail.
7. A preservation plan for the *Applegate Trail* located in the development reviewed and approved by the SHPO. Part of the preservation plan would be to use the historic

Applegate Trail as an economic strategy to encourage historically authentic heritage tourism in Josephine County, and to promote the preservation of this historic cultural resource as an economic tool.

8. An interpretive *Applegate Trail* kiosk, jointly funded by the development, grants, and the Josephine County Sportsman Association, at the Josephine County Sportsman Park.
9. The place where a project's artifacts and original data will be curated should be determined before beginning any fieldwork.
10. Off-Site Mitigation: Research and education options may be appropriate off-site mitigation measures for the *Applegate Trail* in Josephine County.⁵ One, and/or all, of the following mitigation options may be appropriate in preserving the information about affected resources:
 - " Development of a predictive model or model ordinance.
 - " The preparation of a historic context for a particular category of historic resources (e.g., schools constructed by the Works Progress Administration [WPA]; drive-in movie theaters, Oregon prisoner of war camps, CCC camps in Oregon).
 - " Prepare a NRHP nomination for the Applegate Trail in proposed development.
 - " Publish books, articles, technical assistance bulletins, land management plans, and local government comprehensive plans concerned with historic preservation issues, policies and procedures. This could include a written history of the community affected by the project or undertaking, in a format suitable for the public, such as a brochure, booklet or site on the World Wide Web.
 - " Financially support a local museum or historical society or association engaged in local preservation activities.
 - " Development of exhibits, videos, and web sites highlighting the historic resources and historic preservation programs of state and local governments. For example, this could include underwriting the preparation of a museum exhibit or traveling display
 - " The preparation of classroom lecture material concerned with Oregon's precontact and historic heritage, historic resources, and historic preservation issues.
 - " Historic tours, public archaeology programs, market days, and celebrations in historic districts, and other activities drawing attention to the historic resources representing the precontact and historic heritage of the state and our communities.
 - " Archaeology Month lecture.

1. Oregon Parks and Recreation Department and Oregon State Historic Preservation Officer. 2001. *Oregon Historic Preservation Plan*. Salem, OR.

2. Oregon State Historic Preservation Office. 2005. *2005 Oregon Historic Preservation Plan*. Salem, OR.

3. Oregon State Historic Preservation Office. 2001. *Historic Survey Instruction Manual*. Salem, OR.

4. Oregon State Historic Preservation Office. 1997. *Handbook For Historic Preservation Planning*. Salem, OR.

5. Oregon State Historic Preservation Office. April 20, 2006, Working Draft. *Guidelines For Conducting Field Archaeology In Oregon*. Salem, OR.

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.

Appendix J. Draft Executive Summary Of Paper: “*United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*”

The United States military wagon road from Myrtle Creek to Camp Stewart from 1853 to 1880 was earlier the emigrant Applegate Trail from 1846 - 1853. It officially became a military road assigned to the U.S. War Department in 1853 by an act of Congress. The purpose of the U.S. “Military Wagon Road From Myrtle Creek to Camp Stewart” from 1853 through 1880 was officially for the military. However, regardless of this ostensible purpose, the real goal of road improvement was to attract civilian populations and to aid indirectly in the development of the agricultural, timber, and mineral resources of the territory. The Secretary of War, Jefferson Davis wrote in his “Report of the Secretary of War, War Department, Washington, December 1, 1853, which accompanied the annual message of the President of the United States, to both houses of the Congress” the following.

“Contracts have been made for the continuation of roads in Minnesota agreeable, agreeable to the act of January 7, 1853, making appropriations therefore. An act of the same date directs construction of two military roads in Oregon. Each of these was placed in charge of a competent officer, with instructions (copies of which are annexed) to locate and mark the line of the road as speedily as possible, and so direct his operations as to secure a practical wagon road for the benefit of the **fall emigrants** and other travel. The commencement of one of these works was delayed by the difficulty of the Rogue River Indians; but a contract was made for rendering the other, from Walla Walla to Steilacom, passable by the 15th of October last, and it is presumed its conditions have been fulfilled.” (emphasis added)

Transportation improvements were key to the economic development and population growth in the Rogue Valley during the time period from 1853 - 1880 . The period began with limited transportation options into and through the valley. Ships came into the Umpqua estuary and delivered goods destined for the gold mines of Southern Oregon and California. Goods moved from the estuary inland along the Scottsburg-Camp Stuart Wagon Road. Camp Stuart (also identified as Camp Stewart) was a temporary military post occupied in 1851 in the Rogue River Valley. This route passed through Winchester and then into California following the Applegate Trail. Congress funded improvements to the Scottsburg-Camp Stuart Wagon Road and to the old Oregon-California Trail from 1851 through 1879. These road improvements led to the beginning

of stage travel from Portland to Sacramento in 1860. The Oregon and California Stage Company began offering daily stages through the Rogue Valley in 1860.

Applying National Register Criteria. The Oregon-California Trails Association (OCTA) has developed a methodology for mapping emigrant trails which includes applying national register criteria and aspects of integrity to emigrant trails. The Smith Hill Pass Group is exploring applying *National Register Criteria and Aspects of Integrity* to emigrant trails, and how they might apply them to that portion of the 1.8 mile segment of the *Trail* at Smith Hill Pass through the Grave Creek Hills administered by ODOT.

What was the role of the federal government in the location, survey, and improvement of routes for wagons in the West before the railroad era? Among the earnest pleas addressed to the United States Congress by the first legislature of Oregon Territory was a request for federal aid to improve transportation. Long before the creation of territorial government the transportation question had been of primary interest to Oregon's officials. Among the records of the provisional government, 1843 - 1849, six to seven hundred documents, including bills, memorials, and petitions, are related to the problem of road improvement. Yet the Oregon roads did not meet the basic needs of the sparse population at the beginning of the territorial era. The surfacing of routes through forested areas to make them all-season roads was a primary concern of the citizens.

The purpose of the U.S. "Military Wagon Road From Myrtle Creek to Camp Stewart" from 1853 through 1880 was officially for the military. However, regardless of this ostensible purpose, the real goal was of road improvement by the local residents was to attract civilian populations and to aid indirectly in the development of the agricultural, timber, and mineral resources of the territory. The following purposes were officially identified by the federal government.

- 1850 Umpqua River Road to connect California of the newness of the country and in consideration of its small and scattered population. It is most obvious that an appropriation is much needed for the construction and improvement of its roads and bridges.
- 1851 Civil and military purposes.
- 1853 Construction of a road; construction of military road; secure a practical wagon road; and secure a practical wagon road for the benefit of the fall emigrants and other travel
- 1856 Its utility in military operations is sufficiently evident from the fact that it forms a part of the only inland route of communication between California and the Columbia River, Connecting the Settlements Extending Between the Water of the Bay of San Francisco and the Columbia River
- 1857 Completion of military roads in Oregon Territory
- 1858 Operations on the military roads in Southern Oregon
- 1879 Improvement of the old Scottsburg-Camp Stuart Military Road.
- 1880 Half the appropriation expended on Scottsburg-Camp Stuart Military Road

Types of road improvements on "Military Wagon Road From Myrtle Creek to Camp Stewart" from 1857 through 1858 included the normal, but also included some of the most expensive. The normal included surveying and constructing roads. Direct supervision went to the Army

Engineers. Trained military men made the surveys, or assigned them to civilians and, in turn, inspected and approved their work. The jobs of clearing the forest, grubbing out the stumps and underbrush in the right of way, the grading of the route and its drainage, including the building of ditches and culverts where necessary, were tasks performed by civilians under contract. Technical decisions involving the construction of bridges or culverts of masonry and the laying of segments of "McAdamized meta," or stone surfacing, were handled by the Army Engineers.

The expensive improvements resulted from the principal features of difficulty in the northern canon of about one mile where the walls of the cañon become almost vertical, and the southern end, some four miles in length, where the mud had collected to great depths. For examples of expensive improvements in the Umpqua cañon there were two: road relocated on the side of the mountain, and installation of major drainage features in the form of drains and culverts. In the first instance the road was relocated and placed on the side of the mountain where before the road was previously located in the creek, and was but a succession of small precipices and huge boulders. This has involved a great expense, as the road was been literally blasted out of the hard basaltic rock. The improvement, however, was of the most permanent character. Improvements on the southern end was the removal of the deep mud and the correction of why it had collected - the entire lack of drainage. The drainage was corrected by the construction of frequent drains and culverts, while other portions were bridged.

The character of the "Military Wagon Road From Myrtle Creek to Camp Stewart" after the 1858 construction season, including the Grave Creek Hills, was 16' in width, free of roots and stumps, the timber cut down to width of 30' to 60'. The width was reduced where there was heavy rock or earth excavation, but in all places it was easily practicable for a 6-mule team.

The national government's contribution to western transportation was continuous and dominant throughout the nineteenth century. The constitutional controversy over internal improvements early highlighted the importance of this phase of federal activity. With the opening the Great West after the Mexican War, the cry for government assistance in establishing communication lines over vast distances grew ever louder. Through contracts for forwarding supplies to the Army posts, and subsidies for mail delivery and the transmission of telegraphic dispatches, the government attempted to the financial success of private enterprise. Although the grants-in-aid were temporary and the effects transitory, without them communication and transportation in the West would have been not only inadequate but almost impossible.

More important than these indirect government aids was the program of reconnaissance, exploration, survey and improvement of routes usable by emigrants, traders, mail carriers, and soldiers. Throughout the period 1846 - 1869 [1883 - 1887 in Southern Oregon], there was a constant search by government agents for passages through the western terrain whereby wagons could travel from the Mississippi to the Pacific. Where movement was not blocked by swift flowing rivers, where mountain grades were not too steep for mules or oxen to pull a heavily loaded wagon, where the terrain did not undulate sufficiently to overturn the load, where the soil was not so marshy to bog down the wheels, and where the timber and underbrush were not too dense to hinder transit, the wagons were free to roll. More emphasis was placed on the discovery of a natural passage than on construction.

“Individualism and adaptability characterized all those who participated in American’s westward movement. Frontiersmen evinced this as they sought out new routes toward the West and more convenient means of transport. Despite this individualism, the Westerner always sought the aid of the federal government in solving his transportation problem. The principal instrumentality for the earliest road construction by the federal government was the United States Army. Existing Indian trails were usually followed through the wilderness to Army outposts, and only necessary improvements made for the movement of artillery or supply trains. First roads on the frontier were often known locally as military roads. More important for western development, these routes became the migratory wagon roads for early settlers, and when a community was occupied they were quickly used for commercial purposes. Many roads built by the War Department in the western territories, politically justified on the basis of national defense, were much greater significance in facilitating access to public lands.

There were three main appropriations and construction periods on the U.S. Military Wagon Road From Myrtle Creek to Camp Stewart.

1. 1853 - 1854.
2. 1857 - 1858.
3. 1879 - 1880.

This executive summary is a work in progress for the draft evolving paper entitle “*United States Military Wagon Road From Myrtle Creek to Camp Stewart: 1853 - 1880*”, and it is not complete.