

LOLO TRAIL NATIONAL HISTORIC LANDMARK

THREATS AND SOLUTIONS

By

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BRIEF HISTORICAL ACCOUNT OF THE MANAGEMENT OF THE LOLO TRAIL BY THE FOREST SERVICE

The Forest Service was directed by Congress and the National Historic Preservation Act to identify, inventory, mark, protect and make available to the public the historic trails of the Lolo Trail National Historic Landmark. Instead they have initiated an illegal project to obliterate the historic trails and change forever the integrity of the Landmark.

The Clearwater National Forest contains the longest piece of intact Lewis and Clark Trail in the nation and for this reason the Lolo Trail was designated as a historical Landmark on the Clearwater and Lolo National Forests, October 9, 1960. The Lolo Trail named about 1850 is not a single trail, but a network of trails, cut-offs and shortcuts also referred to as the Buffalo Trail or “khusahna Ishkit,” by the Nez Perce. Lewis and Clark traveled on several different trail systems (1805-1806) within the Lolo Trail corridor.

In 1866 Dr. Bird and Major Truax received a government contract to improve the Lolo Trail. They cleared, widened and built 45 miles of new side hill trail. In 1877 the Nez Perce pursued by General Howard used the Bird-Truax Trail. The 1877 War Trail is called the Nee-Mee-Poo Trail (Nez Perce Trail or Ni mi pu Ishkit, spelling of the trail by the Chief Joseph Band, Nez Perce Nation.) In 1934 a road was built, paralleling and over top of, (mostly in the saddles, but sometimes along the narrow dividing ridge) the same historic location of the documented 1911 Lolo Trail. (1911 USGS map) This road has had several old names: Lolo Truck Trail Road, Lolo Trail road, and Forest Service Road 455 on the 1963 CNF map. Presently part of the historic road, with modern road additions, and parts of the historic road cut off, is referred to as the 500 Road or Lolo Motorway. The current signs for the Lolo Corridor are historically inaccurate, and cut off the eastern and western ends of the Lolo Trail Historic Landmark. Several of the ancient parallel trails used by the Nez Perce have not been defined. In the Lolo Trail System, work on the Lolo Trail location, 1934 historic road location, and historical camps within the Landmark, has been incomplete, fragmented, and inaccurate.

In 1965 the Lolo Trail was designated a part of the Nez Perce National Historical Park (NPNHP) May 15, 1965 by the passage of Public Law 89-19. “The law specifies the Park was created to ‘facilitate protection and provide interpretation of sites in the Nez Perce country of Idaho that have exceptional value in commemorating the history of the Nation.’ Specifically mentioned are sites relating to early Nez Perce culture, the Lewis and Clark expedition through the areas, the fur trade, missionaries, gold mining, logging,

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the Nez Perce War of 1877, and ‘such other sites as well depict the role of the Nez Perce country in the westward expansion of the Nation.’²

Three sites of the NPNHP are: (1) Musselshell Meadows Camas Grounds (site No. 22), (2) the Lolo Trail from the western Forest boundary to the state line at Lolo Pass (site No. 23); and (3) Lolo Pass (Site No. 24) are on lands managed by the Clearwater National Forest.³

The Lolo Trail site includes: 1) the historic Lewis and Clark Trail, 2) Nee-Mee-Poo and-or Bird-Truax, (or 1877 War Trail) and the 3) “khusahna Ishkit or the trail to the buffalo, which is really several old Nez Perce Trails, reaching from Idaho to Montana. It also includes the entire 1934 Lolo Trail Road, not just segments of this road, and campsites associated with prehistorical and historical accounts. Many of these historic trails inside the Lolo Trail System are not properly defined, or included inside the current Landmark Boundary. Many campsites for John Work, Mullan, Bird Truax, the 1877 War, and Lewis and Clark, are not located or protected. At least 34 miles of 1934 Lolo Trail Road is outside the current signed,” Lolo Trail corridor.” A complete heritage inventory of the Lolo Trail road and trails has not been done. Inventory is the first step towards protection. Segments of the Lolo Trail road have been and presently are being graveled for timber harvest haul roads.

To properly protect the historic trails within the Landmark, a comprehensive inventory of the trails has to be accomplished before any further projects are planned. A comprehensive Environmental Impact Statement that addresses cumulative effects of past management and formulates a thorough Heritage Resource Management Plan is the first step in protecting the Landmark. This has not been done. Instead, historic trail obliteration projects have been carried out by the Forest Service trail crew by filling in old trail tread, in the corridor. Some of these trails are over 100 years old. Logging roads, skid roads and clearcuts have been built on and across the historic trails.

The U.S. Forest Service has failed to follow the National Environmental Protection Act (NEPA) process. Instead of completing an Environmental Impact Statement (EIS) and formulating a Heritage Management Plan and addressing the cumulative effects of altering the historic trails, they have done small projects one at a time incrementally over time. Many of these projects were done under a “Category Exclusion” NEPA process which ignores not only the “adverse effects” of changing the historic Landmark, but does not address the adverse cumulative effects that have in many instances, irreversibly altered the character of the Landmark.

Region One Forest Service Archaeologists have ignored the Landmark laws, and have failed to assess cumulative effects, which is required. Mike Beckes, U.S. Forest Service Region One Archaeologist, Aug 28, 2002 e-mail to Mark Hill, Clearwater National Forest Zone Archaeologist, “some of past management has been pretty disjointed, it has led to some unfortunate cumulative effects we now must deal with, and we would probably be in a lot better position if we had done one comprehensive EIS (aka

² U.S. Department of the Interior, National Park Service, *General Management Plan, Nez Perce National Historic Park and Big Hole National Battlefield*, September, 1997, 3.

³ U.S. Forest Service, *Lolo Trail System Guidelines, Draft*, Orofino, ID., Clearwater National Forest, 1985, p. 5, 6.

comprehensive management plan).” Mark A. Hill Aug 28, 2002 e-mail reply to Mike Beckes, “We don’t yet have a good awareness of the more encompassing issues and requirements associated with the National Historic Landmark, and we can improve our management of sites and features associated with the NHL. . . . I think the first critical piece at this point is a high quality Heritage Resource Management Plan. This would give us both overall guidance, deal with cumulative effects issues, and put all the issues and needs in perspective.”⁴

Of the approximately 140 miles of historic trail tread from Weippe, Idaho to the eastern Clearwater National Forest boundary, 121 miles is located on the Clearwater National Forest. This does not include the Lolo Trail on the Lolo National Forest, or lost pieces of the Lewis and Clark Trail on the Clearwater National Forest. This also does not include the “Trail to the Buffalo”. The U. S. Forest Service has roaded and logged 44 miles of trail. Most of the logging activity on the historic trail and corridor occurred after 1960 when the Landmark was designated.⁵ The Federal Agency has obliterated, abandoned and has “opened up” (built new trail where none existed - and labeled it historic) an additional 60+ miles of trail. Opened up can be defined as building a modern recreational trail that goes on and off the old historical trail. Most of the trail projects occurred after 1987, which the Forest Service denies. A good example is the Snowy Summit trail Project where a serpentine trail was built in 1992-94 that weaves on and off the historic trail.⁶ The historic trail was filled in with sticks and small trees.⁷

Abandoned historical trail has been obliterated by the Forest Service trail crew and by trail contractors by filling in the trail tread with woody debris, sticks, trees cut down across the trail, and sometimes dirt is placed in the trail ditch. Of the 60+ miles of trail that the Forest Service has “opened up” since 1990 only about 6 to 10 miles are on the original location. Because the Forest Service has not inventoried the trail, it has not been protected to the fullest extent possible as required by the National Historic Preservation Act (NHPA) and the standards set by the Secretary of Interior.⁸ On the 2000-2001 Clearwater National Forest map the legend for historic trails reads “Approximate Historic Route, trail Non-existent, Not Suitable for Travel.” Art Johnson, Lands and Recreation Officer, Clearwater National Forest, who fought for the trail, suggested checking the

⁴ Copy of e-mail correspondence between Mike Beccus and Mark Hill, Aug 28, 2002, filed with the Eastman Papers, Moscow, ID., University of Idaho Library.

⁵ Gravey Creek was logged in 1964. Eldorado and Dollar Creek was logged in the 1980s. The 40 Trail - Lolo Trail was logged in the 1970; again in the 1980s. Lewis and Clark Ridge-Beaver Ridge was logged early 1980’s again in 1994. Pioneer Mine Road (Lolo Trail and 1877 War Trail) east of Musselshell was logged in the early 1990s.

⁶ Clearwater National Forest Snowy Summit Trail Project Documents on file with the Eastman Papers, University of Idaho Library, Moscow, Idaho

⁷ Forest Service Response to EA comments : Lolo Trail and Portals Resources Protection – Decision notice and Finding of No Significant Impact, June 2004: Trail tread work has been limited to maintenance and minor reconstruction; no new Forest Service managed trails have been constructed since 1987.” Appendix B, Pg 24. (This is a fraudulent statement that doesn’t agree with the facts.)

⁸ Code of the Federal Regulations, Title 36, Chapter I, Part 68 *The Secretary of Interior’s Standards for the Treatment of Historic Properties*, (July 1, 1999, Sec 68.3),2 and Part 800, *Protection of Historic Properties*, (July 1, 1999, Sec 800.4 and 800.5)96-98, and *Advisory Council on Historic Places*, Section 106 Regulations of National Historic Preservation Act, Jan 11, 2001), 9.

management plans for the Pacific Trail National Scenic Trail Advisory Council and “Inquire to see if they are restoring sections of the trail that may have been degraded by F.S. past management practices. (I understand that they are now faced with restoration. We shouldn’t get our self in same box by degrading the trail any more than it is now)”.⁹ Unfortunately, management did not follow this advice on the Clearwater National Forest.

The paperwork on past trail location studies is continually lost from the files.¹⁰ This has happened on the 1976 Landmark Trail, identified by Ralph Space, former Clearwater National Forest Supervisor and Andy Arvish, former Clearwater National Forest recreational specialist.¹¹

The Lolo Trail is co-managed by the National Park Service (NPS) and the Forest Service. One would think that this can be interpreted as both agencies having equal say in the decision making process. The Forest Service however, is actually making the management decisions. A good example is the contract to inventory the Lolo Trail tread (path). On July 23, 1999: Historical Research Associates, Inc. (HRA) signed a contract to conduct an archaeological survey which includes the recordation of trail tread and associated cultural resource properties within the trail corridor.¹² The NPS and the Forest Service each contributed \$50,000.00 for this project. The contract was for inventorying 136 miles of the Lolo Trail (historic landmark trail) at \$734.00 per mile. The mileage was reduced to 96 miles.¹³ After the contract was awarded, the Forest Service contracting officer modified the contract: identification of trail tread was deleted except for short segments going to and from a cultural site (prehistoric and historic). This change was noted in the August 2001 Draft report by Historical Research Associates, Inc., (HRA), “In other discussions, the HRA crews were directed to focus on the identification of archaeological properties rather than on the identification of trail tread.”¹⁴ The historic trail tread is also an archaeological site and the identifying the trail treads was the purpose for the original contract (\$99,824.00 project).

⁹ Arvish, “The Lolo Corridor, What It Is and Its Future”, 1974 (Eastman Papers, University of Idaho Library, Moscow, Idaho). attached notes by Art Johnson, January 20, 1975.

¹⁰ Debra Doerflinger, “Locating the Lewis and Clark Trail, Powell Ranger District, Clearwater National Forest, Summer, 1978, 23. Andy Arvish, retired Forest Service Recreational Specialist, couldn’t find his records at the Supervisor’s office, Orofino, Idaho.

¹¹ Ralph Space is the author of *The Lolo Trail, A History of Events Connected With the Lolo Trail Since Lewis and Clark*, Lewiston, ID., Printcraft, 1970, 1988, and Andy Arvish published, “The Lolo Trail, What it is and it’s Future,” 1975, Eastman Papers, University of Idaho Library, Moscow, Idaho.

¹² The first requirement of protection of an archeological site is to identify and intensive survey the site by a qualified archaeologist.

¹³ After the contract was awarded, the U.S. Forest Service determined that the Montana portion of the Lolo Trail National Historic Landmark was already intensively inventoried by Milo McLeod, Lolo National Forest archaeologist and further inventory by HRA was unnecessary.

¹⁴ Historical Research Associates, Inc. (HRA), “Results of a Cultural Resource Inventory of Portions of the Lolo Trail National Historic Landmark Corridor, Idaho and Montana, Draft”, Missoula, Montana, August 2001, 47, and U. S. Forest Service Contract No. 53-0276-98-93, July 29, 1999.

Inventory and Protection Requirements of the Lolo Trail National Historic Landmark

Both Congress and the National Historic Preservation Act require a complete Heritage inventory of the trails, with Smithsonian numbers assigned. This has not yet occurred in spite of the fact that Dale Bosworth (former Northern Region Forester) said that an inventory was the number one priority. Jeff Fee, former Clearwater National Forest archaeologist said, “I was told not to inventory the trail that HRA was going to do it.”¹⁵ There is ample evidence that the trail was purposefully not surveyed by archaeologists and has been moved for timber and other land management purposes. Chris Jenkins, Clearwater National Forest archaeologist said, “We don’t have to inventory the historic trails to protect them.”¹⁶ In 1981 Duane Annis made a recommendation to relocate a portion of the historic trail on the Powell Ranger District.¹⁷ Fortunately the old historic trails are documented on the 1911 and 1913 USGS maps and on the 1907-1960 US Forest Service maps, the Lewis and Clark journals and maps, 1800s historical maps by the military and the 1866 map prepared by W. Bird, M.D., Supt., Geo. B. Nicholson, Engineer, and Oliver Marcy, Geologist.

The Lewis and Clark Commission (authorized by Congress) requested the Forest Service to identify, mark, and keep publicly available the route traversed by Captains Meriwether Lewis and William Clark on their 1804 to 1806 expedition. The Commission defined Perpetuation as “future plans to identify and mark the original route of the ‘Corps of Discovery’ primarily involve preservation.”¹⁸

The identification of the Lewis and Clark Trail tread (path) was never accomplished by the Forest Service according to Secretary of Interior Standards.¹⁹

To protect the Lolo Trail and its related heritage sites the Lolo Trail Landmark Corridor was proposed in 1976, adding 532,000 acres which averaged 6 miles wide in places.²⁰ The nomination form stated that: “The Lolo Trail, as closely as the route can be delineated and enclosing a sizeable portion of land on both sides to allow for campsites and unidentified sections of the trail, as well as a necessary wilderness setting. . . . the integrity of the landmark depends upon preservation of the undisturbed natural settings as seen and described by the explorers.”²¹ On the western end of the Clearwater

¹⁵ Conversation with Jeff Fee, Wendover Ridge Lewis and Clark Trail, 2001.

¹⁶ Resolutions Meeting, Supervisor’s Office, Orofino, Idaho, Aug 6, 2004.

¹⁷ U.S. Forest Service Letter, “Lewis and Clark Trail – Reconnaissance of trail route from Road 5930 to Road 368”, to Powell District Ranger from Duane Annis and Karl Roenke, Aug 24, 1981, “Segment 2: Our Recommendation is to relocate the trail to the ridge and drop off to the SW . . .”

¹⁸ Lewis and Clark Trail Commission, The Lewis and Clark Trail, *Final Report of the Lewis and Clark Trail Commission*, Washington, D.C., GPO, 1969, 3, 17.

¹⁹ The National Historic Preservation Act requires that the trail paths (treads) be located, mapped, dated, measured and photographed by a forest archaeologist and the field inventory form sent to the State Historic Preservation Officer who assigns the Smithsonian numbers for heritage sites.

²⁰ The 1976 Landmark Nomination Form was prepared by Blanche H. Schroer, Landmark Review Project; William C. Everhart, 1958 and Snell, 1964, under the Historical Sites Survey, National Park Service, Washington D.C., July 13, 1976.

²¹ The 1976 Landmark Nomination Form was the official Landmark according to the Idaho and Montana State Historical Preservation Office and the Clearwater and Lolo National Forests. The Keeper of the Historic Places said that the 1976 Landmark was never signed by the Keeper, however they could not

National Forest, the Lolo Trail or the 1877 Nez Perce War Trail is excluded from the corridor. The Lewis and Clark Trail location was mapped by Andy Arvish and was credited to Ralph Space.

Comment: Unfortunately a signed copy of the 1976 Landmark by the Keeper of Historical Places was not located by the author and may have been lost or does not exist. Placing 532,000 acres under the management A-6 recreational classification would have greatly affected timber harvest on the Clearwater National Forest in the 1970 to 1980s.²²

The 1993 Landmark Nomination Form with a mapped location of the Lewis and Clark Trail was accepted by the Keeper of Historic Places, February 1, 1993. The trail location however was mostly done from office research and does not match the Lewis and Clark journals and maps, in places.²³ Mary Anne Davis, Idaho State Preservation Officer said, "This was a corridor study and not a trail study."²⁴ However Merle Wells, former historian, Idaho State Historical Preservation Office and author of the 1993 Landmark said, he located the trail to the best of his ability but there was missing segments. He believed that the missing segments would be located by 2004-2006 and he would be "much surprised if any additional information requires any landmark boundary changes."²⁵

Comment: The historic trails on the 1993 Landmark map don't match the actual ground location in places. This is an incomplete trail study. The 1993 trail location dead-ends at the Sept 16, 1805 campsite (Lonesome Cove Camp) as if Lewis and Clark reversed their march backwards to the 500 Road at Indian Post Office to continue their journey. The 1993 Landmark Trail in Hungery Creek is located in the stream bed.

Ralph Space located a trail in Hungery Creek. The 1976 Landmark Trail which was field verified is more accurate than the 1993 Landmark Trail which was drawn in the office. There is a continual pattern on the Clearwater National Forest of past and present field work being ignored and replaced with office management. Managers are drawing the trail location on maps which don't exist on the ground. How can the corridor boundaries be drawn on a map before the trail is properly located? When the corridor is reduced from an average of 6 miles wide to one-half mile wide, locating the historic trail becomes much more essential.

The Forest Service is ignoring parts of the 1993 Landmark Trail location mapped by Merle Wells. In 1994 the Powell Ranger District, Clearwater National Forest logged the Lewis and Clark Trail and had the timber contractor blade off the trail "for no good reason".²⁶ This trail has been located for 100 years by trail researchers who all agreed that this was the trail: Olin Wheeler- 1905, John Harlan - 1921, Elers Koch -1940, John

locate a copy of the 1976 Landmark nomination form which they said was probably lost from the files during a move.

²² U.S. Forest Service, *Forest Plan*, Orofino, ID. September 1987, III-19, A-6 Management Area A6 (16,175 Acres) consists of a corridor approximately ½ mile in width (1/4 mile on either side) that encompasses the historic Lolo Trail system.

²³ Idaho State Historical Preservation Office, Merle Wells, author, "National Register of Historic Places, Registration Form", (NHL boundary Study) February 1, 1993, with attached maps.

²⁴ Telephone conversation with Mary Anne Davis, May, 2002.

²⁵ Letter to Jerry L. Rogers and Carol D. Shull, National Register, National Park Service from Merle Wells, February 2, 1992. On file with the Eastman Papers, University of Idaho Library, Moscow, Idaho.

²⁶ Anonymous Dozer operator, Plum Creek employee, Powell Ranger District, June 2004.

Peebles and Ralph Space – 1960's, Andy Arvish – Ralph Space -1971 and 1976- 1993 Landmark Trail, Debra Doerflinger 1978-79, Duane Annis and Karl Roenke 1980-1999, Wells, 1993 Landmark Trail. In 2000 this historic trail is non- existent, or not suitable for travel.²⁷

The Forest Service maintains nobody knows where the trail is. Chris Jenkins, “People have been looking for the trail since before the centennial anniversary of the expedition. There are many trail-seekers and many theories. It’s one of those things that we’re not all going to agree on. It is debatable whether finding the exact trail is even possible.”²⁸

They logged a one-half mile long, 50 to 100 foot wide path along the trail and bladed off the trail on the 1994 Beaver Ridge timber sale. Not only did 100 years of trail researchers agree this was the trail, it was in the Forest Service trail corridor, and logging the corridor was a violation of the Forest Plan. In this one mile section of Forest Service land, there is a ½ mile section of ancient trail left, with 100 year old blazes, single path, right on the ridge top, matching the single path definition of Indian trails.²⁹

This section of Forest Service land on Beaver Ridge tells the Lolo Trail evolving management history. The Forest Service says the trail is ever changing, lost, non-existent - or unknown. Where the Forest Service bladed the trail off, in violation of the Forest Plan, this is correct, the trail is lost, and only the corridor remains. Chris Jenkins statement is becoming correct, as the trail “evolves” and constantly changes throughout 100 years of Forest Service history.

Those researchers and Forest Service staff, who say, “We have the longest piece of intact Lewis and Clark Trail in the nation,” are also correct, for the remaining intact one-half mile trail section on Beaver Ridge. The question to ask is how much of the trail will we lose in the next 10 years to Forest Service management? Since the trail “no longer exists,” on the Clearwater National Forest map, perhaps continued logging in the corridor will result in the unique character of this last remaining piece of the Lolo Trail (Nez Perce and the Lewis and Clark Trails) being lost.

On the Powell district, historical researchers all agree that the trail was on top of Beaver Ridge. When the Forest Service took the trail off the map in 2000 the location of the trail was known in 1999, but was lost in 2000, in preparation for the bi- centennial. Was the trail lost when the Forest Service did trail obliteration projects to small sections of historic trail? Or did the trail become lost because the Forest Service used this excuse to cover up the lack of a proper intensive inventory of the historic trails? Is the trail really lost, or is it “being lost?”

The Forest Service is also ignoring the 1980-1999 Lolo Trail location (verified by forest archaeologist Karl Roenke). Instead the Forest Service is building trails where none existed and locating designated trails where ever they decide which is continually changing. They are dumping trees across the historic trail with trail obliteration projects and hazard tree removal projects.

²⁷ U.S. Forest Service, Clearwater National Forest, Idaho [map] 2000-2001.

²⁸ The Spokesman Review, “The Lolo Trail May Be Getting Lost”, September 7, 2004. p A7.

²⁹ Dennis Baird, Editor, *With Bird and Truax on the Lolo Trail*, Moscow, Idaho, University of Idaho Library, 1999. p. 31. “The trail here assumes the character of all Indian roads being nothing more than a path wide enough to accommodate a single animal.”

The Nez Perce National Historic Park planning team conducted public meetings to identify existing conditions and challenges relating to resource protection. The team found that “There is encouragement to preserve the aesthetic qualities and the historic scent and character, to avoid encroachment, and to keep sites ‘natural’ and open. The possible commercialization of surrounding areas is a concern.”³⁰

Perhaps a corridor averaging ½ mile wide is not wide enough to keep sites “natural” and open. It is also not wide enough to protect the numerous trail systems in the landmark.

Loss of the Integrity of the Lolo Trail National Historic Landmark

Instead of protecting the Landmark as directed by Congress, the Clearwater National Forest Service has been obliterating the trail.³¹ These damaging projects accelerated in 1990 using the National Environmental Protection Act (NEPA) Category Exclusion process. Trail obliteration (altering the integrity & character of the landmark) building trails that go on and off the historic trails is illegal under the National Historic Preservation Act.³² Also all “adverse effects” (changing the character of the Landmark) projects are required to have input from the National Advisory Council on Historical Places which has not occurred in most cases.³³

Before any projects can be implemented, the Forest Service has to complete their inventory as required by the National Historic Preservation Act of all the historic sites and the trail trends within the Landmark corridor.³⁴ None of the trails or the Lolo Trail Road has Smithsonian numbers assigned which indicates that no heritage inventory (site forms) has been completed and sent to the Idaho State Historical Preservation Office (who assigns the Smithsonian numbers).

³⁰ U.S. Department of Interior, National Park Service, *General Management Plan, Nez Perce National Historical Park and Big Hole National Battlefield*, September, 1997. p. 13..

³¹ Hazard Tree removal, several hundred trees were dropped across the Historic Lolo Trail Summer, 2004 blocking foot and horse travel.

³² NHPA U.S. code Title 36, Chapter I, Sec 68.2 (a) Preservation means the Act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

³³ U.S. Code Title 16, Chapter 1A Subchapter II, Sec. 470f. Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation. “The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under part B of this subchapter a reasonable opportunity to comment with regard to such undertaking.”

³⁴ Revised Section 106 regulations, Final Rule: Preamble (effective January 11, 2001) 23, “The NHPA grants the Council (Advisory Council on Historic Places) the authority to promulgate regulations regarding section 106 ‘in its entirety.’ 16 U.S.C. 470s. It would be impossible for an agency to take into account the effects of its undertakings on historic properties (which include those listed on the Register, as well as those eligible for listing), as section 106 requires, if it does not know what those historic properties are in the first place. Accordingly, the identification and evaluation provisions of this rule are reasonable under the authority.

Advisory Council on Historic Places, Section 106 Regulations of National Historic Preservation Act, Jan 11, 2001), p. 9.

The Idaho State Historical Preservation Office (SHPO) worked with retired SHPO historian Merle Wells to complete a new Landmark Nomination form dated September 13, 1988 and approved February 1, 1993, along with maps for the historic trail location and new corridor boundary. Was the purpose of the 1993 Landmark to establish a half-mile wide corridor matching the 1987 *Forest Plan* for timber harvest? Mary Anne Davis, Idaho State Historical Preservation Officer, said, “The 1993 Landmark was a boundary adjustment to include the Nez Perce Trail (which just became a national historic trail) in the Landmark.” The corridor is reduced to 16% of the 1976 Landmark Corridor changing the area of protection from 532, 000 acres to about 86,000 acres.

The past history of the Landmark, the Nez Perce Trail (1877 War Trail or Lolo Trail) already was included in the Lolo Trail National Historic Landmark. The Lolo Trail National Survey of Historic Sites and Buildings form (1964) and the Survey and Nomination forms (1976) included the section of the Landmark Lolo Trail (Nez Perce Trail) to Weippe, Idaho and the Lolo Motor Road to Pierce, Idaho. However, the 1976 Landmark Nomination form boundary maps didn't include the Nez Perce Trail and Lolo Motor Road from Green Saddle west.³⁵ This was an error in the 1976 boundary map, because the 1934 Lolo Road (3 branches on the Western end of the Clearwater Forest, not just one,) and the Lolo Trail to Musselshell, was included in the verbal description. (The 1976 Landmark paperwork failed to mention 2 branches of the historic 1934 road, on the Western end of the Clearwater, but did include one of the 1934 road branches, and the Lolo Trail, or Nez Perce Trail, which is clearly defined on the Forest Service maps from 1915 – 1960.)

One example of shrinking the corridor is removal of the trail in upper Fish Creek. This leg of the Lewis and Clark Trail was first located by trail researcher Elers Koch in 1940. It was also verified by John Peebles in 1964 which matched the Lewis and Clark Journals. The 1971 Arvish-Space location (also 1976 Landmark) moved the trail two miles north. The Clearwater National Forest in 1980 moved the trail a second time a little farther north completely out of the head of Fish Creek. The new 1980 trail location was field verified by Duane Annis, recreational specialist and Karl Roenke, archaeologist in 1983-1984 after it was created in the office. There appears to be a pattern on the Clearwater National Forest of the Forest archaeologist verifying changing historic trail locations by office management for timber and land management. Plans were made to log in the head of Fish Creek but the plan was stopped by the public. The 1980 trail location which moved the trail out of Fish Creek was also adopted by the 1993 Landmark Trail. The 1993 Landmark Trail goes on and off the 1980 trail, creating confusion from office management and inaccurate historical data. This is how the historic trail has been moved in Fish Creek step by step.

The author located the trail following the journals, then later through research found that both Koch and Peebles also located the trail across upper Fish Creek. The result of the 1993 Landmark Trail change and boundary reduction is that the original Lewis and Clark Trail across Fish Creek and the Lunch Stop located at Myrtle Meadows is no

³⁵ National Survey of Historic Sites and Buildings Supplementary Sheet, “Lewis and Clark Expedition. XV, Military and Indian Affairs”, Sept 15 1964, p. 2 and National Register of Historic Places Inventory – Nomination Form, Lolo Trail, July 13, 1976, p. 1, 2.

longer recognized, protected or in the 1993 Landmark corridor.³⁶ The Forest Service is creating confusion by changing trails: the 1976 Landmark Trail, the 1980 Trail, the 1993 Landmark Trail and now the historic trail no longer exist.

A second example is the Lewis and Clark Trail between the Cedar Grove (Clark's camp of September 19th 1805) and Lolo Creek. This trail was located by Ralph Space also by John Peebles who was sure that this trail matched the journals and maps. A timber sale was planned for this area in the early 1990s and the trail was logged. A new trail was constructed by the Forest Service trail crew and labeled the historic trail.

The Forest Service is mapping trail changes to historic trails that may or may not exist on the ground. "Map history" documented by the author: 1971 Lewis and Clark Trail location, 1976 Landmark Trail, 1980 Lewis and Clark Trail, 1984 Blue Line map, 1995 USGS map shows the continually changing historic trails on the Clearwater National Forest.

Confusion has been created in the Landmark by Forest Service Management. Intense research by the author both in the office and in the field has revealed the location of the Lewis and Clark Trail that matches the journals and maps and most of the trail can still be followed.³⁷ The Forest Service has an almost 100 year history of mismanaging the historic trails and a 44 year history of mismanaging the landmark trails. The Forest Service knew for 100 years the historic trails were valuable; however there is also a 100 year history of the F.S. altering the trails. If the U.S. Forest Service is allowed to continue their mismanagement policies, the trail will be "lost forever".³⁸

There has been no heritage inventory of the Lolo Trail System completed as required by the National Historic Preservation Act according to the Secretary of Interior standards.³⁹ Because Heritage Inventory was not done, the validity of the 1993 Landmark Trail location can be challenged. This is the third time since 1971 the trail has been relocated by the Clearwater National Forest, creating confusion and trail location errors in the Landmark. Was the 1976 Landmark boundary reduced in violation of federal laws from six miles wide to the 1993 half-mile wide boundary? The answer to this question is yes if the 1976 Landmark Nomination Form was signed by the Keeper of Historical Places. If it wasn't signed, why wasn't the 1976 Landmark accepted? This

³⁶ This trail location was identified in 1940 by Elers Koch, retired Lolo Forest Supervisor, author of "The Lewis and Clark Route Retraced Across the Bitterroots," *Oregon Historical Quarterly*, 41 (June 1940) p. 160-174, and by John Peebles, University of Idaho Professor, author, "On the Lolo Trail: Route and Campsites of Lewis and Clark." *Idaho Yesterdays* 9 (Winter 1965-66), p. 2-15. This route also matches the Lewis and Clark journals and maps.

³⁷ Eastman's 1805 Lewis and Clark Trail Location is scheduled to be published by the University of Idaho Library sometime in the winter of 2004-2005.

³⁸ U.S. Forest Service, Lolo/Bitterroot National Forest, *Lolo Trail Study Draft Management Guidelines*, by C. Milo McLeod (n.p: Lolo National Forest, 1982) 46. "Not unlike other cultural resources, the Lolo Trail is nonrenewable and that great care should be taken to preserve the trail in its historical setting. Once a portion is damaged or destroyed it is lost forever."

³⁹ U.S. Forest Service Letter, Lewis and Clark National Historic trail, to Mollie and Eugene Eastman, April 10, 2003. "You suggested that a heritage inventory be completed for the Lewis and Clark Trail next to the trailhead project and the Lolo Trail Landmark before any more projects are implemented. ... We will consider this suggestion as funding allows, and as it is required by legislation relating to cultural sites. (Heritage Inventory is required and HRA received almost 100,000 dollar contract to inventory the Historic trail and after the contract was awarded they were told not to inventory the historic trail)

author called both Montana and Idaho State Historical Preservation Offices and they said that the 1976 Landmark was accepted.⁴⁰ Also the Clearwater National Forest Recreational Specialists Duane Annis and Forest Archaeologist, Karl Roenke assumed that the 1976 six-mile-wide corridor was in effect.⁴¹

The Lewis and Clark Trail, defined by the Lewis and Clark journals and maps, weaves in and out of the 1993 one-half mile wide corridor. Also portions of the Nee Mee Poo (1877 War Trail) is incorrectly located by the 1993 Landmark map. Parts of the Lolo Trail, defined on the 1911 USGS and 1915 CNF map are not included on the 1993 Landmark Trail location.

The 1993 Landmark Lewis and Clark Trail located in the streambed of Hungry Creek is one example of the lack of trail inventory and poor trail research by Merle Wells, the author of the 1993 Landmark nomination form. Ralph Space located a trail in Hungary Creek, documented by field notes, and located on the 1976 Landmark map. How can a boundary be reduced from 6 miles wide (to include unidentified trail segments?) to one-half mile wide on the Lolo Trail Landmark, without heritage inventory of the old Lolo Trail System, and field work being completed first?

The result of the 1993 boundary reduction of the Lolo Trail Landmark from the 1976 Landmark boundary is that many of the Lolo Trail branches are now outside the Landmark corridor. Also about 16 miles of Lewis and Clark Trail that matches the journals and maps is outside the 1993 Landmark Corridor. However the 1976 Landmark 6-mile wide Boundary protected some of the 16 miles of the undiscovered Lewis and Clark Trail and also some of the Lolo Trail branches. To include the old Lolo Trail documented on U.S. Forest Service maps and all of the Lewis and Clark Trail, and including the pre-1866 Nez Perce Trails to the buffalo, a 30 to 40 mile wide corridor along with a complete Landmark Registration Form should be initiated by SHPO and approved by the Keeper of the Historic Places. The U.S. Forest Service has refused to do an adequate heritage trail inventory.⁴² Because no through heritage inventory has occurred, 60% of the Lewis and Clark Landmark Trail locations and 75% of the Lewis and Clark Landmark campsite locations don't agree with the primary source documents; the Lewis and Clark journals and maps.⁴³

Other historic camps, used by General Howard, Bird-Truax, John Work and others are also undocumented by the Forest Service, or located in error.⁴⁴ General Howard's

⁴⁰ Verbal conversations with the two SHPO offices by the author, February 2004.

⁴¹ Lolo Trail System Implementation Guidelines, p. 24 and U.S. Forest Service Letter, "Lewis and Clark Trail – Reconnaissance of trail route from Road 5930 to Road 368", to Powell District Ranger from Duane Annis and Karl Roenke, "The Forest has described the physical environment surrounding it as the foreground views seen from the trail. The legal description of the Lolo Trail Historic Landmark encompasses a much larger area."

⁴² Concerns discussed in this paper have been brought to the attention of the Region One Forester and the Chief of the Forest Service, Dale Bosworth.

⁴³ Research findings by Gene Eastman to be published in Volume II, Bitterroot Crossing, Lewis and Clark across the Lolo Trail, due out sometime in 2004.

⁴⁴ General Howard led the army in the 1877 pursuit of Chief Joseph and the Nez Perce Indians across the Lolo Trail. Dr. Bird and Major Truax built the 1866 Bird-Truax trail closely following or using portions of

August 4th, 1877 campsite (Camp Robt. Pollock) is located at Spring Mountain, not its current Forest Service location near Howard Creek. This is one example of incomplete office and field research by the Clearwater National Forest.⁴⁵ Pressure to complete projects (e.g. timber sales, trail projects, campgrounds) may explain why the inventory of heritage sites was never completed, especially if the trail interfered with or stopped such projects. Management told Jeff Fee, forest archaeologist, not to inventory the historic trail, only to inventory the proposed recreational route.⁴⁶

Steven W. Armstrong, archaeologist for the Nez Perce National Forest, in addressing the cultural resources overview for the North Lochsa Face Assessment Area, focuses quite clearly on the heritage issues and concerns for parts of the Lolo Trail Corridor.

Perhaps the greatest concern lies in the fact that many of the previous surveys, and especially those completed during the 1970s and 1980s, are inadequate by today's standards. In many instances, there is no map or discussion explaining the survey methods used or the total amount of survey coverage. . . . Today, we consider these areas to have had no previous survey coverage. . . . Many sites on the Forest (including the Assessment Area) were recorded from the office without any type of field verification. . . . The management of the resource, let alone the Assessment Area, becomes nearly impossible, for you cannot properly manage a resource or geographic area without fully knowing all of the "on the ground" details of that area.⁴⁷

Another result of a lack of Heritage inventory of the historic trails in the Lolo Trail Landmark System can be seen on the Forest Service 2000 - 2001 map which indicated that the Lewis and Clark Trail no longer exists.⁴⁸ The Clearwater National Forest map legend for the Lewis and Clark Trail was marked as Approximate Historic Route; Trail Non-Existent, Not Suitable for Travel for all the way across the forest. Short sections in Eldorado Creek, Hungery Creek, and Willow Ridge and on Wendover Ridge have been marked on the map as trail open to travelers and also trail nonexistent, creating confusion for the public. Most of the opened trails are newly constructed trails and are not historically accurate. The historic trail across the Clearwater National Forest is very difficult to locate and trying to follow the trail is an extreme challenge to the experienced hiker without getting lost. And progressively every ten years locating the trail becomes more difficult because of Forest Service management. On a field review with Ranger Cindy Lane, September 23rd, 2002, the head of trails, Rollen Kehert admitted doing trail obliterate projects to the old Lolo Trail near Weitas Meadows. Ranger Cindy Lane stated that the old trail, we all stood on and recognized (closed about 1990 by trail crew) no

a Nez Perce Indian trail to the buffalo. John Work, Fur Trader for the Hudson Bay Fur Company, led a fur brigade across the Lolo Trail in 1831.

⁴⁵ Lynn and Dennis Baird, *In Nez Perce Country, Accounts of the Bitterroots and the Clearwater after Lewis and Clark*, Moscow, University of Idaho Library, 2003, p. 260.

⁴⁶ Jeff Fee, "Systematic Inventory of the Lolo Trail 1993-1997" written report.(On file in the Eastman archives, University of Idaho) 2, and verbal conversation with Jeff Fee on a field trip on Wendover Ridge, July 2001 where he stated that he was told not to inventory the historic trail tread.

⁴⁷ Armstrong, "North Lochsa Face Assessment Area Cultural Resources Overview", p. 8.

⁴⁸ U.S. Forest Service. "Clearwater National Forest Idaho. [map]. U.S. Forest Service: Clearwater National Forest, year: 2000-2001.

longer existed. Linda Fee, head of Recreation, said the old trail was plain as day on the 1930s aerial photos.⁴⁹ The old trails documented by Lewis and Clark, John Work, Lt. Mullan and others both in journals and maps can be plainly seen still in the field, on the ground, even after illegal Forest Service trail obliteration projects. However where the trail has been bladed off or dozed by logging projects, only the corridor is left. What is the future of the historic trails? Will our children still be able to walk the old trails?

Idaho State Historical Preservation Office to remedy the lack of a complete heritage inventory for the Lewis and Clark Trail applied for and received a \$24,830 grant to precisely survey the trail using Global Positioning System (GPS). The work was done by Steve Russell, electrical engineering professor, Iowa State University, 2002 - 2003. The final report was due in 2003 and is still pending.⁵⁰ Russell is locating the designated trail. The designated trail is the current Forest Service maintained "Historical" trail which continually changes. Sometimes trails are built for no good reason because the older trail is on better drained ground.⁵¹ Sandy McFarland, Forest Service Region One Nez Perce Trails Coordinator stated, "No one would argue that the trail we built is the historic trail."⁵² However the Forest Service is labeling the trails they built as historic and creating a braided trail system and confusion in the Landmark.

Steve Russell stated that the Lewis and Clark Forest Service Trail 25 (current relocated designated trail) from Bradford Bridge to the 500 Road near Mex Mountain was the historic trail.⁵³ This trail is actually the designated trail that was constructed and continually relocated, from about 1971- 2004; which created a modern braided trail system in the corridor. This modern Forest Service trail system went on and off the historical trail but mostly off (90% or more). This management has changed the character in the corridor, created confusion and braided trails where none existed, and taken the historic trail out of the one-half mile wide corridor in places. Steve Russell was asked by the author if Russell's Lewis and Clark Trail location matched the Lewis and Clark Journals? Russell replied, "My trail location doesn't have to match the Journals."⁵⁴

June 26, 1992, Steve Russell signed a Challenge Cost-Share Agreement between himself and the Clearwater National Forest. "Item A. The Challenger shall: #2 "Assist the Forest Service in locating a proposed recreation trail generally along the Bird-Truax route that will protect key segments of the historic routes."⁵⁵ What has happened since this contract was signed is that the Forest Service trail crew is building a new trail that

⁴⁹ The 1932-1934 aerial photos are located at the Supervisor's office, Clearwater National Forest, Orofino, Idaho.

⁵⁰ The author checked on the Russell Lolo Trail GPS report July 26, 2004 and at that time the report was still due.

⁵¹ At the Lewis and Clark Cedar Grove, Rolland Kehert, head of trails, commented that the old trail was on better drained ground than the 1995 Forest Service trail addition, Sept 2002 field trip.

⁵² Sandy McFarland, Nez Perce Trails Coordinator, Nez Perce Trail Heritage Foundation meeting, Wallowa, Oregon, July 16, 2004

⁵³ Presentation given at the Lewis and Clark Symposium, Lewis and Clark College, Lewiston, Idaho, June 2002.

⁵⁴ Field Trip, Idaho State Lands, June, 2001

⁵⁵ Contract between Steve Russell and the Clearwater National Forest is on file with the Eastman Papers, University of Idaho Library, Moscow, Idaho.

did not exist, and doing trail obliteration projects to the old trail in the corridor. Also the Forest Service is managing the new trail as the historic.

“Item B. The Forest Service Shall: #4 Work with the challenger to locate a recreation trail route that will preserve some segments of the historic routes for public use and interpretation.”⁵⁶ According to this contract, Steve Russell is locating a recreation trail and the location of the historic trail is known by the Forest Service. The contract reads: “... that will preserve some segments of the historic route...” All segments of the historic route should be preserved.

This sums up Forest Service management of the historic trail for 100 years, and 44 years as a landmark trail. The Forest Service has continually preserved some segments of the historic route, while destroying other segments. In 1992, the Forest Service built a “new segment” of the “historic trail,” just north of Lolo Forks. This was the second trail relocation project for this segment of historic trail - moving the trail, and corridor, further east. All segments of the historic route should be preserved in their historic condition and open to the public.

Idaho State Historical Preservation Office requested the Russell-Forest Service contract from the author which was sent to their office, so they are aware of the problem, but say they have no control over Forest Service management in the landmark.

Chris Jenkins, Clearwater National Forest archaeologist said, “The Forest Service is simply trying to designate one trail for hiking among the existing network of trails. While they may not be the expedition’s precise route, these are existing trails that have been out there and have been used historically.”⁵⁷ This statement by a Federal employee which implies that existing trails are being used as the designated routes ignores the documented newly constructed trails that are being used as designated trails. Mollie Eastman asked Chuck Raddon, former head of trails, “ Why did you build a new Forest Service trail in the historic corridor, near Lewis and Clark Cedar Grove? “Raddon replied, “To preserve the historic trail.” Mollie asked, “Did you document where the old trail is?” Raddon replied, “No.”⁵⁸

The Forest Service is out of Compliance with the 1987 Forest Plan and Federal laws.

The Forest Service has violated their 1987 Forest Plan which accepted the Lolo Trail System Implementation Guidelines (see Appendix at the back of this report). These guidelines called for “Cultural Resource Surveys”, which were never completed, even though Congress allocated the funding. The 1987 Forest management plan, still in effect in 2004, 17 years later, called for protection of trail tread and trail associated sites.

The first step to protection of a heritage site is identification; protection of a resource can not occur without a heritage inventory. Not even the old historic Lolo Trail Road, (part of the Lolo Trail National Historic Landmark) identified on old Clearwater National

⁵⁶ Ibid.

⁵⁷ The Spokane Review, Sept 11, 2004, “The Lolo Trail May Be Getting Lost” p. 7.

⁵⁸ Conversation between Mollie Eastman and Chuck Raddon, June 1995

Forest Maps has been identified correctly in the current Lolo Trail Landmark.⁵⁹ This historic road should be inventoried and assigned a Smithsonian number. Instead roads built in the 1960's are added to the Lolo Trail Road system. An example of this is the road built up Eldorado Creek and Dollar Creek (1960s to the 1970s). The new road was labeled incorrectly as part of the Historic Lolo Motor Road (Road 500). Parts of the 1934 Lolo Trail Road were deleted from the Landmark and Corridor and have been widened and graveled illegally for timber harvest (an example is the Pioneer Mile Road (Smithsonian Site 10-CW-365) that was rocked and improved for the Siberia Creek Timber Sale, early 1990's. This continues to occur up until the present time. The Forest Service plans on graveled the Parachute Road 569 which is part of the Landmark and the 1934 Lolo Trail Road.

Parts of the Lolo Trail Road, on the eastern and western ends of the Clearwater National Forest have been cut off (entrance signs to the historic Lolo Trail corridor are several miles inside the Landmark). The Forest Service has a history of building trails and roads that did not exist, labeling them historic and cutting off or doing trail obliterate to the old trails and roads that were included in the Landmark. Landmark paperwork is consistently incomplete, and the trails and roads in the Landmark continue to change.

In the early 1990's The Forest Service began to build a recreation trail that would weave on and off the historic trail, which was never approved. Leroy West was hired in the early 1990s to locate a recreation trail on the eastern end of the Clearwater National Forest that went on and off the historic trail.⁶⁰ The building of the proposed designated trail is in violation of the Forest Plan, and several laws protecting the Landmark. The 1985 Lolo Trail System Implementation Guidelines also direct: "monitor land use along the trail remnants and prevent, modify, or discontinue uses which would alter or destroy historical or cultural resources".⁶¹ Instead historical and cultural resources have been destroyed.⁶² The trails have been altered, the Lolo Motorway has been altered, plans to improve the campgrounds and corridor continue to be followed, and implemented without following the proper NEPA guidelines or doing the heritage inventory.⁶³

The Forest Service has violated the Archaeological Resource Protection Act by allowing trail crews to dig out historic trail tread without going through the proper

⁵⁹ U.S. Forest Service, Clearwater National Forest, Clearwater National Forest Map 1936. The Lolo Trail Road on the western end branched three ways: (1) over Hemlock Peak to Pierce, ID, (2) over Woodrat Mountain to Suttler Creek, and (3) to Beaver Saddle and to Musselshell Meadows on the Pioneer Mine Road. On the eastern end the Lolo Trail Road crossed at Lolo Pass and went to Powell and up the present day Forest Service Road 569. The Lolo Motor Road has been cut off at both the eastern and western ends of the Forest. In 1963 the Motor Road was called the 455 Road and it went from Powell to Suttler Creek. In 1960 it was called the Lolo Trail Road.

⁶⁰ Telephone Conversation with Leroy West, June 2003.

⁶¹ U.S. Forest Service, *Lolo Trail System Guidelines, Draft*, Orofino, ID., Clearwater National Forest, 1985, 23. The management of the Lolo Trail documented in the Guidelines was adopted by the 1987 Forest Plan, III-20. (The Draft Guidelines were never revised)

⁶² One example: The Lolo Trail 40 was logged in the 1970s; it was logged again in the 1980's. The Lewis and Clark Trail 56 was logged in the 1990s and was taken off the trail inventory according to the 1990 Trail Guide Book.

⁶³ Lolo Creek Development Recreation EA, January, 2004 failed to identify the Lewis and Clark Trail which goes through the Lolo Creek Campground which is slated for reconstruction. They documented the Lewis and Clark Trail existed in the campground but can't be identified.

procedures which are: 1. Site survey conducted by qualified archaeologist and the site inventory survey forms sent to the Idaho State Historical Preservation Office for approval. 2. "Submitting the project (undertaking) to the State Historical Preservation for clearance by the Preservation Officer prior to conducting the project."⁶⁴ The Forest Service has also dug up the Lolo Trail Road with out following necessary heritage laws.⁶⁵

The Forest Service has violated the National Historic Preservation Act (NHPA) by not protecting these sites to the maximum extent possible since no complete inventory of the trails has been accomplished. Dale Bosworth, former Region 1 Forester and now Chief of the Forest Service, to bring the forests into compliance with the NHPA, directed the Forest Supervisors responsible for the Lewis and Clark National Historic Trail to complete and implement a plan for the trail, "By the end of FY 1999, we need to have completed and begun implementation of a Regional heritage inventory, protection and interpretation plan for the trail corridor. Protection of this Heritage Resource is our NUMBER ONE priority."⁶⁶

The Clearwater National Forest is not in compliance with this directive; however the funding was released by Congress to complete it.

The Forest Service is not in compliance with the National Trails Systems Act which requires that any newly constructed trails must follow the original trail as closely as possible and any deviations marked (signed) on site. The National Historic Preservation Act also requires any newly added feature replacing an original feature that has deteriorated will be marked as a newly added feature. (For the Clearwater National Forest it can be argued that the designated trails that weave on and off the historic trails are not necessary nor have they been authorized by the Advisory Council on Historic Places as required by NHPA). In some places the new trails exactly parallel the old.

At the Powell Ranger District a new trail was constructed in 2002 that goes from White Sands Campground to the Powell Campground and labeled as the historic Lewis and Clark Trail. This designated trail is not even in the Landmark corridor. The Forest Service has to obey all the laws that apply to the Landmark which take precedence over the National Trails Systems Act. The Forest Service trail crew created braided trails in

⁶⁴ Title 16, Chapter 1b Archaeological Resources Protection Act of 1979, 47bb.

The definition of an archaeological site is over 100 years of age containing artifacts to include but not limited to pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items.

⁶⁵ Widening the road and installing culverts without the proper heritage clearance from SHPO.

⁶⁶ Dale N. Bosworth, Letter to Lewis and Clark National Historic Trail Forest Supervisors, November 20, 1998. (On file at the Region 1 Supervisor's office, Missoula, Montana) and "Special requirements for protecting National Historic Landmarks," Title 36 *Code of Federal Regulations*, pt. 800.10 (a), 2001 ed. This section also states that "the Agency Official, to the *maximum extent possible* undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking". Bosworth underlining and capitol letters emphasized his directives.

several locations.⁶⁷ These trails need to be documented, and dated by a complete heritage inventory.

The Forest Service has not complied with the National Environment Protection Act (NEPA) by doing projects under Category Exclusions rather than under Environmental Assessments or ideally under an EIS which would assess cumulative (adverse) effects.

Adverse effects as defined by Alan Stanfill, Advisory Council on Historic Places, “Building new tread and obscuring with fill (closing trail tread with woody debris, soil & rocks) the historic tread of any significant historic trail, even if done with the best of intentions to improve visitor experience and safety, would likely be an adverse effect because such actions could diminish the integrity of the trail’s setting, location, design, feeling and association. The adverse effect would occur to the extent that these qualities contribute to the integrity of the historic property.”⁶⁸

(NEPA process requires that cumulative (adverse) effects have to be assessed and documented before a project can be implemented.)⁶⁹ The Forest Service mistakenly ruled that building new trail that goes on and off the historic trail does not change the integrity of the Lolo Trail National Historic Landmark.⁷⁰ The historic trails within the Lolo Trail Landmark represent how the Nez Perce Indians traveled over the landscape on foot and on horseback. The early trails built by Bird-Truax represented how early trails were constructed in 1866 (grade, switchbacks width of the trail tread and width of vegetation removed in the lane). Changing the construction of the original trail treads changes a non-renewable resource and changes the integrity of the Landmark.

Cultural Values of the Lolo Trail NHL to the Nez Perce Indians

The original historic trails used by the Nez Perce Indians are important to their religious hunting and cultural activities. By destroying the integrity of these trails the Forest Service is in violation of the Nez Perce Treaty of 1855 and is interfering with the Nez Perce practices under the Indian Freedom of Religion Act. The Nez Perce have the legal

⁶⁷ Braided trails constructed by the Forest Service (1990s) cross the historic trail numerous times back and forth in a serpentine manner. (Gene Eastman, *Bitterroot Crossing, Lewis and Clark Across the Lolo Trail*, p. 62.)

⁶⁸ Alan Stanfill, e-mail to Gene Eastman, May 31, 2002, filed with the Eastman papers, University of Idaho Library.

⁶⁹ Cumulative effects would include how much of the integrity of the trail tread within the Lolo Trail National Historic Landmark has been lost due to road building, logging and building a recreational trail that went on and off the historic trail.

⁷⁰ Integrity is defined as the original historic Location, Design, Setting, Materials, Workmanship, Feeling, and Association. Changing the integrity is an adverse effect to the character of a Landmark and should be addressed under an EIS for a Landmark. An example of an “adverse effect” undertaking using the wrong NEPA assessment is the newly constructed trail with a 10% grade and switchbacks that was built between Camp Martin and Beaver Dam Saddle. This project (Nee-Me-Poo Snowy Summit, FY 94) was done under a Category Exclusion. Reasons for Categorically Excluding the Proposed Action: “The proposed action is categorically excluded from documentation in an EIS or EA under FSH 1909.15, section 31.2(1), which covers trail construction and reconstruction (40CFR 1508.4). There has been no finding of extraordinary circumstances that might cause the action to have significant effects.” The U.S. Forest Service ignored the Landmark and heritage laws concerning the historic trail. The Nee-Mee-Poo Trail was filled with woody debris and no longer can be safely walked or ridden by horseback. The switchback trail has changed the character, feel, and the experience for the visitor.

right to walk in the footsteps of their ancestors on the old trail. Trail obliteration projects occurring along the old Lolo Trail make this impossible with trees cut down and dumped in the trail, and branches piled one to two feet deep in the old trail.

Remedies to Protect the Historic Landmark

The Forest Service has mismanaged the Lolo Trail National Historic Landmark since the Landmark was established and the agency has adversely modified the Lolo Trail for 100 years. One solution would be to transfer the Lolo Trail System and corridor between Lolo Montana and Weippe Idaho to the Department of Interior, National Park Service because co-management has not worked. This should include a corridor wide enough to protect all the branches of the Lolo Trail such as the Austin Ridge Lolo Trail and other ancient trails used by the Nez Perce.⁷¹ One example of an ancient trail is located across Frenchman Butte, Middle Butte and McLendon Butte to Fish Creek and to Sardine Creek where the Nez Perce mined materials for projectile points. There is an estimate 500 miles or more of branch and parallel trails within the Lolo Trail system that have not been identified.

According to a forest archaeologist before the late 1700 smallpox epidemic, there were about 30,000 Nez Perce Indians and many lived year-around near the Lolo Trail corridor. Many of these campsites, food processing and food gathering sites have not been identified or inventoried.

In 2002 the Clearwater National Forest sent four people from the Regional Office to Washington D.C. where they testified before the Assistant Secretary of Interior and Congressional aids that the Clearwater had the longest piece of intact Lewis and Clark Trail in the nation. They also said that the Forest Service was correctly managing and protecting the Lewis and Clark Trail.

Of the approximately 140 miles of historic trail tread from Weippe, Idaho to the eastern forest boundary, 121 miles is located on the Clearwater National Forest. The Forest Service has roaded and logged 44 miles of trail. The federal agency has obliterated, abandoned and “opened up” (built trails where none existed) about 60 miles of trail, since 1990. Of the 60+ miles of trail that the Forest Service “opened up”, only about 6 miles is on the original location and 54 miles of new trails were built and labeled as old historic trails. Because the Forest Service has not inventoried the trail, this trail researcher (Gene Eastman) has decided to document the old Lolo Trail System, which includes forgotten Indian trails that have not been documented or protected from development.⁷² On the Lewis and Clark Trail, 35 miles of undiscovered trail that matches the Lewis and Clark journals and maps that is almost in its primitive 1805 condition, also should be added to the Landmark corridor.

The error of the 1993 Landmark Trail is not surprising when a trail researcher realizes the history of the 1993 trail location, and lack of heritage work and field review. This researcher, contrary to statements by the Forest Service that no trail exists, has found trail

⁷¹ U.S. Forest Service, Clearwater National Forest, Clearwater National Forest 1911 Map.

⁷² Gene and Mollie Eastman have studied the Lolo Trail historic trails on the ground and by historic research since 2000.

tread across the Clearwater National Forest from Lolo Pass to the edge of the Weippe Prairie that can be identified and followed.⁷³

The archaeologists have been repeatedly told not to inventory the historic trail treads. Jeff Fee, forest archaeologist, was told to inventory only the flagged 3 ½ miles of new zigzag trail connectors and ignore the rest of the trail tread on Wendover Ridge because Historical Research Associates (HRA) were going to inventory the historic trail.⁷⁴ Jeff Fee recommended the entire trail system be heritage inventoried, “however a problem arose that appeared to put somewhat of a wrench into that strategy...an across the forest recreation trail that would parallel and often superimpose the National Historic, and other historic trails was proposed and I (Jeff Fee) was told that my priority would not be the inventory of the 86 mile corridor but would be the flagged line route proposed for this new recreation trail.”⁷⁵

Steven W. Armstrong, archaeologist with the Nez Perce National Forest was concerned that past archaeological surveys are not adequate or meet present day standards of surveying. Armstrong was concerned that projects (timber sales, trail and road construction) are being implemented on inadequate heritage survey data done in the 1970s and 1980s where the archaeologist would either record the information from an office without a field survey or make one or two walks through an area and not adequately identify heritage features and sites.⁷⁶

Intensive surveys are done by walking back and forth a few meters apart and mapping and photographing the survey path walked and the items found. The mapping is done by stretching a meter tape across a meadow or campsite and measuring at right angles to each feature (projectile point, tools). Intensive under- ground surveys are done by digging random 1 meter squares across a suspected site (Indian food processing or camping area).

In December of 1999 Jim Caswell, former Supervisor was aware that the public and Forest Service employees were concerned with Forest Service management of the historic trails and he met with his staff to discuss the problems and the solutions. Caswell writes, “There is concern that we may be using the same standards of maintenance for historic trails as any other Forest Service recreation trails, thereby changing the tread and historic character permanently. There is also concern that we have already changed the character of some sections of historic trail before adequately documenting them.”⁷⁷ In the

⁷³ The 140 miles of trail represents the Forest Service location of the historic trails and does not include all of the trail tread located by Gene Eastman.

⁷⁴ Jeff Fee, “Systematic Inventory of the Lolo Trail 1993-1997”(On file in the Eastman archives, University of Idaho) 2, and conversation with Jeff Fee on a field trip on Wendover Ridge, July 2001.

⁷⁵ Ibid.

⁷⁶ Armstrong, “North Lochsa Face Assessment Area Cultural Resources Overview”, p. 8.

⁷⁷ Caswell, Letter to Rangers, Staff, Recreation and trails Staff, Heritage Resources, Dec 28, 1999, directing that the 1985 Lolo Trail Implementation

Guidelines be used as a reference for heritage resource and recreation management beginning on page 21 and managing trail segments beginning on page 43.

same letter Caswell wrote, “32 miles of 86 miles of the historic Lolo Trail across the Lolo Trail Corridor between Musselshell Meadows and Packer Meadows have been opened and are being maintained.

Comment: Caswell was unaware that there was more than 32 miles of trail opened up. Linda Fee in a response to Caswell’s letter stated that there was 53 miles of trail opened up and another 3.5 miles planned.⁷⁸

Milo McLeod, Zone Archaeologist for the Lolo and the Bitterroot National Forest Service in his management recommendations, McLeod stated that to meet federal regulations:

The Lolo Trail should be managed in such a way as to not create any long term adverse impacts to the trail, its environment and the related sites and/or features. Careful attention to project planning detail will be essential so as to not sacrifice or jeopardize any future management options for the Lolo Trail . . . It should be remembered that the Lolo Trail and its related sites individually may appear insignificant. However when they are viewed together they represent a very significant part of our national, state and local heritage. Not unlike other cultural resources, the Lolo Trail and its sites are nonrenewable. Once a portion is damaged or destroyed it is lost forever.”⁷⁹

Solutions to the Problem

Who holds the Forest Service Accountable?

The Idaho State Preservation Office is charged with making sure that all projects are in compliance with the NHPA and the 106 regulations which spell out how each heritage site will be inventoried and protected.

The Advisory Council on Historic Places (ACHP) can also hold the Forest Service accountable if the Nez Perce Tribe request that they become involved or where there is a disagreement between SHPO and the Forest Service.

The American people can demand through their senators and representatives that the Forest Service comply with the laws protecting the Landmark.

Congress can pass laws changing the category of the Landmark to either a wilderness or transfer the land from the Department of Agriculture, U.S. Forest Service to the Department of Interior, National Park Service.

The courts can get involved if the Forest Service is sued. Heritage laws have never been challenged on the Clearwater National Forest.

Unless the U.S. Forest Service management direction is changed they may continue to build their recreational trail that goes on and off the historical trails across the Clearwater National Forest. The federal agency may continue to implement timber sales that alter the view and impact the trail and campsites some of which have not been properly located and inventoried.

⁷⁸ Linda Fee, Letter to James Caswell, Cindy Lane, Doug Gober and Mark Hill, dated Jan 5, 2000, p. 1-3. (On file at the Clearwater National Forest Supervisor’s office, Orofino, Idaho)

⁷⁹ U.S. Forest Service, Lolo/Bitterroot National Forest, *Lolo Trail Study Draft Management Guidelines*, by C. Milo McLeod (n.p.: Lolo National Forest 1982), p. 46.

Recommendations

1. As a minimum the inadequate 1993 Landmark Nomination half-mile wide boundary (corridor) needs to be expanded to 30-40 miles or more wide and redone to include all of the Lewis and Clark Trail, all of the 1911 and 1915 Lolo Trail, and branches of the old Lolo Trail documented on maps and historical accounts. A new Landmark would also include Nez Perce heritage and old Indian trails in the expanded Lolo Trail corridor.⁸⁰ Documented historic and pre-historic sites in the 1976 Lolo Trail corridor do not fit inside the 1993 half-mile wide corridor. The half-mile wide corridor has also left out key parts of the Lewis and Clark Trail.
2. A moratorium on all trail disturbing activities and development, outhouses, campground improvements and road improvements until an adequate inventory is conducted using the latest technology, both aerial and ground surveys (including dating trail treads).
3. All newly constructed trails in the Landmark be obliterated and planted with native vegetation.
4. Nez Perce Trail systems (example, from Lolo Hot Springs to Granite Pass, thence to Lost Lakes down Cayuse Creek, to Martin Hill, Weitas Creek, Lean-to Ridge, Camp Martin, and to Musselshell Meadows) should be identified as one of the many branches of the Nez Perce Lolo Trail system, inventoried and dated.⁸¹ These trail systems should be included in a complete Lolo Trail National Historic Landmark boundary and be protected.
5. The original historic trails and campsites of both Lewis and Clark and General Howard and Nez Perce historical events be correctly identified and marked with the sign logos and interpretative signs. The Nez Perce culture has been almost entirely ignored in the 1993 Landmark nomination form and should receive recognition in a complete and comprehensive Landmark Nomination form. The Nez Perce Tribe should have a greater say in interpreting their history and heritage along the Lolo Trail National Historic Landmark.
6. That a "Trail to the Buffalo" Monument should be created to include federal land within the Lolo Trail National Historic Landmark (Nez Perce National Historic Park) or that the federal land should be transferred from the Department of Agriculture to the Department of Interior and managed by Nez Perce National Park, Spaulding, Idaho to preserve the longest piece of intact Nez Perce and Lewis and Clark Trails before they are irrevocably altered.⁸²
7. Create a 30-40 mile wide restoration wilderness to protect the scenic values from logging along the Lolo Trail.

⁸⁰ The 1976 six-mile wide corridor included some but not all of the heritage sites identified in the U.S. Forest Service, Northern Region, 1990 *Lolo Trail System Guidelines, Initial Draft*, Orofino, ID., Clearwater National Forest, August 1990, p. IV24-IV38,

⁸¹ There are numerous Indian peeled trees between Cayuse Saddle and Lost Lakes dating back to the 1800s.

⁸² The Nez Perce National Historical Park was created by Congress under public law 89-19, in 1965 and is administered by the National Park Service with the headquarters located at Spaulding, Idaho. The Lolo Trail (site number 23) is one of the National Park Sites.

Summary

The Forest Service was directed by Congress and the National Historic Preservation Act to protect, identify, inventory, mark, and make available the historic trails of the Lolo Trail National Historic Landmark. Instead they have initiated illegal projects to obliterate the historic trails and change forever the integrity of the Landmark. A modern graded recreational trail has been planned across the forest which is being sold to the public as the historic Nez Perce and Lewis and Clark Trails. The Forest Service has broken several laws and has failed to follow their own procedures in managing this precious historical, archaeological and cultural resource. The Forest Service has to be held accountable by the public, the Congress and the courts and the management direction changed before even more of the Landmark is forever altered.

APPENDIX

The Lolo Trail System Implementation Guidelines

The Lolo Trail System Implementation Guidelines, July 15, 1985 is the document that spells out how the Lolo Trail Historic Landmark will be managed. The guidelines were adopted by the Clearwater Nation Forest 1987 Forest Plan. According to the 1985 "Guidelines", evidence of the trail can be found over much of the Forest. "Evidence of the trail can be found over much of the route, and portions coincide with present day Forest trail system."⁸³

"Trail 56, Lewis and Clark Trail: 4.0 miles which has not been maintained in a number of years but which has identifiable tread and can be followed."⁸⁴

Comment: Trail 56 is on "Lewis and Clark Ridge." This trailhead was marked with a sign, "Lewis and Clark Trail," from the 1930's. The trailhead was marked a second and third time, in the 1980's by Forest Archeologist, Karl Rocky, then again in the 1990's by Forest Archeologist, Jeff Fee. In 1990, it was removed from the Forest Service trail system, and some of the trail was logged. Trail 56 is still worth saving. Does this trail "no longer exist?"

(Lolo)"Trail 40 from Road 5020 to Road 104 6.5 miles: Trail 40 is a well defined and maintained tread following a gently rising ridge top. Extensive timber harvest has taken place on either side of the first three miles. In places, clearcuts extent to the trail and the trail was used by tractors as a back line of cutting units. Logging skid trails and slash are evident in these areas. Visual impacts in the immediate vicinity and background viewed from the trail have been significant and will persist for many years."⁸⁵

⁸³ U.S. Forest Service, Northern Region, *Lolo Trail System Implementation Guidelines, Draft*, Orofino, Idaho: Clearwater National Forest, July 15, 1985, p. 21.

⁸⁴ *Ibid.*, p. 31.

⁸⁵ *Ibid.*, p. 36.

Comment: The Clearwater National Forest now claims that Lolo Trail 40, clearly documented on the 1866 Bird Truax- George B. Nicholson map on top of the dividing ridge, no longer exists.⁸⁶

The “Guidelines” further comment on the condition of the Lolo Trail, “Research and fieldwork has continued over the years. This work has led up to the field reconnaissance of 1983 and 1984 which was designed to locate trail tread and accurately map the trail system across the Clearwater National Forest. Similar work was accomplished on the Lolo National Forest in 1977 and 1978. (McLeod 1982).”⁸⁷

Comment: McLeod’s work was accepted by Region One Forest Service, and the trail was located using Global Positioning Satellites (GPS). Clearwater National Forest archaeologist Karl Roenke’s work on the Lolo Trail was discarded by U.S. Forest Service, Northern Region.

1985 Guidelines description of the Lewis and Clark Trail in Hungry Creek: “During 1984 a field reconnaissance was made of the roughly twelve miles of the Hungry Creek drainage. This section of the Lewis and Clark Trail is widely considered to be the least disturbed section of the entire 3,700 mile route and the one most closely approximating conditions similar to those viewed by Lewis and Clark.”⁸⁸

Comment: USFS, Northern Region, and the Clearwater National Forest claims the trail in Hungry Creek no longer exists.

The “Guidelines” required that the Forest Service “Protect trail tread and trail associated sites.”⁸⁹

The “Guidelines” discussed the boundaries of the Lolo Trail National Historic Landmark: “The Landmark boundary described in the National Register of Historic Places encloses approximately 532,000 acres which includes the travel route itself and a “sizeable” portion of land on both sides to allow for campsites and unidentified sections of the trail, as well as a necessary ‘wilderness’ setting.”⁹⁰

Comment: In 1985-1987, the 1976 Landmark was the Landmark boundary averaging six miles wide. However, this did not mean much on the Clearwater, and they continued to log inside the boundaries and across the trail. When did the trail go from a known ground location to a trail that no longer exists?

“Timber ran the Forest, in those days.”⁹¹

⁸⁶ G.B. Nicholson, “Exploration and Surveys for a Wagon Road from Virginia City, Montana to Lewiston, Idaho” [map reproduction]. State Historical Society of Wisconsin, WHi(X3)51707, 1866. As reproduced by Dennis W. Baird, ed. In *With Bird and Truax on the Lolo Trail: Building the Virginia City to Lewiston Wagon Road, 1865-67*. Moscow, Idaho: University of Idaho Library, 1999, p. 22.

⁸⁷ Ibid., p. 36.

⁸⁸ Ibid., p. 22.

⁸⁹ Ibid., p. 23.

⁹⁰ U.S. Forest Service, Northern Region, *Lolo Trail System Implementation Guidelines, Draft*, p. 24.

⁹¹ Conversation with Duane Annis, Recreation, June 2002.



[Photo by Gene Eastman, Sept 2004 near Cayuse Junction.] Ni mi pu Ishkit, (Ni mi pu: The People, Ishkit: Trail) (1877 Nez Perce War Trail and the Lewis and Clark Trail). Trail tread blocked for about 1 mile by the Forest Service hazard tree removal project – hundreds of trees cut down across the trail, summer of 2004.

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