



**File Code:** 1570-1

**Date:** October 21, 2002

**Route To:** (1570 - 215)

**Subject:** ARO Letter - Wendover Ridge Trail Improvement Project DN - Clearwater NF - Appeal #02-01-00-0075 - Friends of the Clearwater, et al.

**To:** Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Gary Macfarlane, on behalf of Friends of the Clearwater, The Ecology Center, and Gene and Mollie Eastman, protesting the Wendover Ridge Trail Improvement Project Decision Notice (DN) on the Clearwater National Forest (Powell Ranger District).

The selection of Alternative 3 authorized the following activities on the Wendover Ridge Trail on the Powell District of the Clearwater National Forest (DN, p. 2):

- There will be 0.4 miles of new trail construction (reroutes around portions of the historic trail). This includes rerouting sections on the steep portions of the upper trail, constructing new trail to a stock water site in the mid-section of the trail, and extending three switchbacks on the lower end of the trail.
- Deeply rutted portions in the upper portions of the historic trail will be filled with native materials to trap soil that will aggrade and eventually rehabilitate the trail. These areas will be open to foot traffic but not to stock. Signs will be used to divert stock away from these areas and onto the rerouted sections.
- The trail will be retained and managed to provide a more primitive, rustic experience for all users. Trees and other obstacles less than 12" high will be intentionally left across the trail if they pose no significant safety hazard to hikers and stock users. Minimal trail maintenance will be conducted to provide for a setting similar to what Lewis and Clark and the early Nez Perce people may have experienced.
- Native materials (logs and rocks) will be installed as drainage structures to reduce existing and potential erosion of the trail tread.
- A mechanized wheelbarrow will be used to transport materials during reconstruction. A short-term exemption to existing motorized access restrictions will be used. The trail would remain closed to other motorized use during and after project completion.
- The entire length of the historic trail tread and the rerouted sections will be open to foot traffic.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellants' objections and recommended changes, has been



thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the laws relating to preservation of heritage resources. The appellants request the DN be rescinded and a comprehensive Environmental Impact Statement be prepared. An informal meeting was held but no resolution of the issues was reached.

### ISSUE REVIEW

**Issue 1: The Forest Service violated NEPA by making a determination of no adverse effect to the Wendover Trail in the Section 106 report and EA, which is contradicted by the EA elsewhere.**

**Response:** Forest Service Heritage Resources Specialists conducted an intensive field survey of the project area. A heritage inventory report and determination of effects, based on the activities proposed in Alternative 3, was sent to SHPO in March of 2002 (PF, Docs. V1-18 and V1-24). The determination of no adverse effect was signed by SHPO on April 29, 2000 (PF, Doc. V1-24). SHPO reconfirmed their finding of “no adverse effect” in a letter to Mr. Eastman dated August 9, 2002 (Transmittal Letter attachment). Chapter 4 of the Environmental Assessment (EA) describes the effects of all alternatives on the historic trail (EA, pp. 24-26). A Finding of No Significant Impact was made in the DN, stating that no scientific, cultural, or historic resources would be adversely affected by this decision (DN, p. 6). The Wendover Ridge Trail Improvement Project complies with the National Historic Preservation Act (DN, p. 7). This issue was also addressed in Response to Comments (DN, Appendix A, p. 2).

**Issue 2: The Forest service violated NEPA, NFMA, and the Clearwater Forest Plan, by failing to conduct an analysis considering connected issues and cumulative effects of the Wendover Staging and the Lewis and Clark Portal Environmental Assessments.**

**Response:** As stated in the EA, there are no connected actions to the proposed action (p. 6). The IDT considered reasonably foreseeable actions in their cumulative effects analyses (EA, pp. 16-18 and 24-29). The projects considered included the Wendover Staging Area, the Lolo Trail and Portal Resource Protection Project, Johnson Fuels, the Wendover Ridge Road Obliteration, and the Highway 12 Trailhead Improvement. These projects were not identified as connected actions because the Wendover Ridge Trail Improvement Project is not contingent upon or closely related to the other projects, as described in 40 CFR 1508.25(a). Rather, they are similar actions, as described in 40 CFR 1508.25(a)(3), which an agency *may* wish to analyze in the same impact statement.

**Issue 3: The Forest Service violated NEPA, NFMA and the Forest Plan, by failing to address carrying capacity and limits of acceptable change.**

**Response:** Carrying capacity for the trail was not identified because trail conditions on the Wendover Ridge Trail are good overall, with the exception of drainage improvements in some locations. Preventing erosion and further degradation of the trail will limit impacts associated

with the expected increased use during the Lewis and Clark Bicentennial celebration. In lieu of assessing carrying capacity, monitoring of trail conditions will occur (EA, p. 18). Current trail tread conditions were assessed by the Heritage Resources Specialist (PF, Vol. 1, Doc. V1-18) and the Trails Maintenance Specialist (PF, Vol. 2, Doc. 64, pp. 2-5).

Limits of acceptable change are referred to as an objective in the Forest Plan under recreation and visual objectives as related to dispersed recreation areas (p. II-5). Trail management, improvement, and maintenance are considered a separate management function in the Forest Plan, with goals and objectives that focus on relocation and reconstruction (p. II-7). More detailed Forest Plan Goals and Standards for the Historic Trails are described in Chapter III, for Management Area A-6 (pp. III-19 to 22), and in the Lolo Trail Guidelines (PF, Vol. 2, Doc. V2-59). An action item in the Lolo Trail Guidelines for Wendover Ridge Trail is: "Mark and maintain Forest Trail 85 as the route of Lewis and Clark Trail. Maintain for easy to moderate difficulty of travel for the hiker and stock use" [PF, Vol. 2, Doc. V2-59, p. 56, Item (o)]. The Lolo Trail Guidelines were appended to the Forest Plan (p. III-22).

**Issue 4: The Forest Service violated NEPA by failing to consider an adequate range of alternatives; an alternative that considers redirecting users to Trail 56.**

**Response:** The IDT considered an adequate range of alternatives, including those forwarded through public comment (EA, pp. 12-15). The alternatives not evaluated in detail (EA, p. 15) did not meet the purpose and need of the project. This issue was also addressed in Response to Comments (DN, Appendix A, pp. 2-4).

The alternative for redirecting use to Trail 56 was not mentioned in any of the public comment letters received. Further investigation shows that Trail 56 no longer exists on Clearwater Forest maps or databases, or when it did exist, it was not within the project area. The location of the trail would not allow users to follow the Wendover portion of the Lewis and Clark journey as Trail 56 lies approximately 5 miles to the east of Wendover Ridge.

**Issue 5: The Forest Service violated NEPA by failing to meet the purpose and need described in the EA and in the Decision Notice.**

**Response:** The purpose and need as identified in the EA (p. 5) is to prevent erosion and further degradation of the trail that may occur with the expected increased use and to protect the historic values of the trail and route, not to avoid increased use as referred to in the appeal. The National Trails System Act directs Forests to manage historic trails. The Act requires "that historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment." The Act also states, "that a designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience" (PF, Vol. 2, Doc. V2-58a, pp. 3-4). I find that the DN does meet the purpose and need for the project.

Mitigation measures will maintain historic values of the trail, such as a more "rustic" appearance. Monitoring during increased use periods will allow managers to adjust management if necessary to protect those values (EA, p. 18), which would meet Forest Plan direction for the trail (EA, p.

7). No alternatives were forwarded through public comments regarding a “permit system” for the Wendover Ridge Trail. Comments regarding management of the trail were addressed in Response to Comments (DN, Appendix A).

**Issue 6: The Forest Service violated NEPA by not evaluating trail reroutes in terms of tribal treaty rights.**

**Response:** Evaluating the trail reroutes in terms of tribal treaty rights was not raised as an issue by the Tribe, the public, or through internal scoping. The Tribe was made aware of this project through scoping, an interagency meeting (EA, p. 10), and were mailed a copy of the EA. Scoping comments were received from the Tribe (PF, Vol. 2, Doc. V2-6).

**Issue 7: The Forest Service violated NEPA by not adequately analyzing the effects on wildlife and watershed resources.**

**Response:** Effects on wildlife and watershed resources are adequately addressed in the EA and project file (EA, pp. 27 to 29; PF, Doc. V2-73 and Doc. V1-50). Effects analysis is based on the activities proposed to meet the purpose and need to protect the historic values of the trail and route. Increased recreation use was considered in the analysis and will be addressed through monitoring, which will allow managers to adjust management if necessary (EA, p. 18).

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellants. I recommend the District Ranger’s decision be affirmed and the appellants’ requested relief be denied.

/s/ Maureen McBrien

MAUREEN MCBRIEN

Appeal Reviewing Officer

Deputy Director of Recreation, Minerals, Lands, Heritage and Wilderness