



**File Code:** 1570-1

**Date:** September 10, 2004

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

**Subject:** ARO Letter - Lolo Trail and Portals Resource Protection DN - Clearwater NF -  
Appeal #04-01-00-0038 - 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 the Friends of the Clearwater, Gene and Mollie Eastman, Alliance for the Wild Rockies, and the Ecology Center, Inc., protesting the Lolo Trail and Portals Resource Protection Project Decision Notice (DN) on the Clearwater National Forest.

The Forest Supervisor's decision selects alternative 2, which authorizes the following activities in preparation for the Lewis and Clark Bicentennial observance on the North Fork, Lochsa, and Powell Ranger Districts of the Clearwater National Forest:

**Portal Parking Areas** – These parking areas will be constructed in the portal areas in association with trailheads, camping areas, and interpreted historic sites.

**Dispersed Campsites** – Within the most remote portion of the analysis area, dispersed campsites will be identified and numbered, so that they may be assigned to visitors during the peak visitation years. The designated campsites would be located at existing camps and flats along Roads 500, 557, 560, 561, and 588. Many sites will require no additional work to make them useable. A few sites will need some minor improvements to make them suitable for camping. An additional 10 dispersed campsites will be developed along Road 500 in existing log landings from the western Forest boundary to milepost 10. The existing access roads would be reshaped, spot surfaced with gravel, and drainage structures installed.

**Roads** – A limited number of roads will be reconstructed, modified, or improved for the increase traffic during the Bicentennial.

**Stock Facilities** – Stock facilities will be constructed along the Lolo Trail Corridor and spur roads. Stock facilities will include water and containment facilities, and stock user camping areas.

**Administrative Facilities** – Administrative facilities will be improved or constructed in the analysis area. These will include entrance and exit facilities to administer the permit system for entering the most remote portion of the Lolo Motorway during the Bicentennial, interpretive and informational signs, campsites, and helispots for administrative use and emergency response.

**Toilets** – Vault toilets will be installed to replace existing pit or vault toilets at six locations in the analysis area. Temporary above ground toilets will be located near designated dispersed



campsites along the Lolo Motorway. These toilets may require minor leveling. The temporary toilets will be removed each fall and at the end of the Bicentennial.

**Travel Restrictions** – All motor vehicles, except snowmobiles, will be prohibited except on designated travel routes in the Hungery, Willow, and Fish Creek drainages and an area ¼ mile on each side of: the Lolo Motorway (Road 500) from Papoose Saddle to Canyon Junction, including Weitas Meadows and Noseeum Meadows; Nez Perce National Historic Trail (Trail 40) from Papoose Saddle to Road 104 at Martin Camp; Lewis and Clark National Historic Trail (Trail 25) from Papoose Saddle to its junction with Road 524 near the Dollar Creek Bridge; and Trail 3 to Horseshoe Lake and the Lake itself.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are 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 National Historic Preservation Act (NHPA). The appellants request the Regional Forester rescind the DN. An informal meeting was held and two of the appeal points were dropped. The remaining points will continue through the appeal review process.

## ISSUE REVIEW

### **Issue 1. Cumulative effects/connected actions.**

**Contention 1.1:** The EA/DN fails to meet the mandates for cumulative impact analysis and look at connected issues.

**Contention 1.2:** The decisions made in this DN are connected to the DN for the Wendover Staging Area, the Wendover Trail, Castle Butte Electronic site and past projects along the trail.

**Response:** As stated in the EA, there are no connected actions to the proposed action (p. 1-8). Cumulative effects for each alternative considered the effects of other projects near the project area including the Nee-Me-Poo Connector Trail, Wendover Ridge Trail Reconstruction, Wendover Ridge Road Obliteration, Wendover Staging Area and Trailhead, Corps of Discovery Campground, Castle Butte Electronic Radio Transmission Site, Brick Trout project, White-White project, Knoll Creek Bugs Timber Sale, and North Lochsa Face Ecosystem Restoration Project (EA, pp. 3-1, 3-6 to 3-8, 3-16 to 3-19, and 3-26 to 3-28). Outside of Brick Trout, White-White, Knoll Creek Bugs Timber Sale, and the North Lochsa Face project, none of the other projects would involve quantifiable changes in vegetation, habitats, or scenic values (EA, p. 3-1). These projects were not identified as connected actions because the Lolo Trail and Portals Resource Protection Projects are 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 2. NEPA Issues.**

**Contention 2.1:** NEPA was violated by not looking at an adequate number of alternatives and dismissing an alternative to not construct permanent facilities and to keep the corridor (except the Lolo Motorway itself) non-motorized.

**Contention 2-2:** The Forest Service failed to follow NEPA by not completing an Environmental Impact Statement (EIS).

**Response:** The ID team developed the alternatives based on the purpose and need, the scope of the project, and issues generated from internal review and public scoping comments (EA, p. 2-5). In addition to the no action and the proposed action, five alternatives were identified and not considered in detail, including: Widen and improve the Lolo Motorway; Construct a toilet at No-see-um Meadows; Construct various facilities at undeveloped Lewis and Clark Historical Sites; and Obliterate Road 500Z to the old Ranger Station site, Road 500Y across Weitas Meadows, and the road to Horseshoe Lake to reduce resource damage. During comments, the appellants did not raise the alternative to not construct permanent facilities and to keep the corridor (except the Lolo Motorway itself) non-motorized, so it specifically was not considered. I find an adequate range of alternatives has been considered.

The regulations at 40 CFR 1501.4(c) provide for the preparation of an Environmental Assessment (EA) to determine whether or not to prepare an EIS. As documented in the DN and Finding of No Insignificant Impacts (FONSI), the District Ranger determined that this project is not a major federal action with significant effects on the quality of the human environment (DN, pp. 32-35). The presence of important resource values in itself does not require the preparation of an EIS for analyzing the environmental effects of any given action, if the effects are determined to be insignificant. In this project, the Forest designed the project to avoid significant environmental impacts to the national historic landmark. It is documented in the FONSI for the Lolo Trail and Portals Resource Protection EA why the effects of this project are not significant (DN, Appendix B, p. 1).

**Issue 3. Heritage Resources.**

**Contention 3.1:** The Forest Service violated the NHPA by relocating and building new trail that goes on and off historic trail tread causing adverse impacts.

**Contention 3.2:** The Forest Service violated the NEPA by not completing a Heritage Management Plan.

**Contention 3.3:** The Forest Service has violated heritage resource laws and regulations by not doing an inventory of all trail treads in the Landmark Corridor.

**Contention 3.4:** The heritage surveys that have been conducted may not meet today's professional standards.

**Contention 3.5:** The Forest Service cannot avoid disturbing trail tread without doing a survey of the trail in the Landmark Corridor.

**Contention 3.6:** The Forest Service will violate heritage resource laws and regulations by not adequately monitoring ground-disturbing activities.

**Contention 3.7:** The Clearwater National Forest has not followed Section 106 Regulations to find a resolution of adverse effects from planned projects on the Lolo Trail Historic Landmark.

**Response:** The NHPA of 1966 (as amended) requires that Federal Agencies with direct or indirect jurisdiction over all Federal, federally-assisted, or federally-licensed undertakings afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings that affect properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) prior to the agency's approval of any such undertaking (36 CFR 800.1). This Act does not prevent management activities from occurring within the National Historic Landmark.

The Clearwater National Forest's overall goals include managing and interpreting heritage resources in accordance with Federal Law and Forest Service direction. This project complies with the regulations implementing the NHPA. The Forest Service has completed heritage resource surveys in areas potentially affected by the proposed actions. The proposed actions have been designed to avoid or mitigate impacts to heritage resources. If heritage values are identified during project implementation, they will be protected according to provisions of State and Federal law. Concurrence has been obtained from the Idaho State Historic Preservation Office (DN, p. 30).

Direct, indirect and cumulative effects of the projects are addressed in the EA. Effects to heritage resources are addressed on pages 3-6 to 3-8. As stated in the Purpose and Need for the project (EA, p. 1-6), the purpose for this proposal is to minimize the effects of visitors on the high elevation vegetation and historic and pre-historic cultural sites within the Lolo Trail and Motorway Corridor during and after the Lewis and Clark Bicentennial. The objective of the project is to limit or minimize changes from the existing conditions. The proposed facilities have been designed to avoid impacting the archaeological sites, thus avoiding direct effects to sites (EA, p. 3-6).

Systematic heritage surveys within the analysis area have been conducted under the direction of professional archaeologists since 1993. The most recent intensive surveys were conducted between 1999 and 2002. All dispersed camp and facility sites proposed for this project have been surveyed (EA, p. 3-3). All heritage resources associated with those developments have been identified and mapped. Professional archaeologists conducted these surveys using the current Department of Interior and the SHPO standards. The SHPO has been consulted and has agreed that the project will have no adverse effect to heritage

resources (Project Record, Vol. 3, Docs. 1-15 and 1-16). The selection of the no action alternative would have been deemed an adverse effect from unconstrained public use of the area (DN, Appendix B, p. 5).

This project does not propose to do any trail work. While not building any trails or addressing trail management under this project, the Forest will be monitoring to prevent or limit effects to surveyed historic trail tread (DN, Appendix B, p. 7).

#### **Issue 4. Specific Areas of Concern.**

**Contention 4.1:** This project is an adverse undertaking according to the laws and regulations governing heritage resources because the Forest Service is excavating Road 500Y to a depth of 8-12 inches, which will unearth pre-historic and historic artifacts.

**Response:** The intent of the proposed work to Road 500Y in Weitas Meadows is to repair wet spots by installing geo-textile cloth followed by a layer of gravel. Currently the road creates a barrier for water flow in the meadow. By doing the repair work, water will be able to again flow in a more natural manner within the meadow. In addition, the road would be narrowed from its current 18 foot width to approximately 12 feet, reducing impacts to the meadow (Project Record, Vol. 2, Doc. E-2, p. 4).

Hardening the access road to Weitas Meadows (Road 500Y) should limit the damage from vehicular access. The proposed activities, the replacement of the existing toilet, installation of an interpretative sign, closing of (non system access roads) ad hoc access roads that lead into the meadow, and hardening the existing road that access the dispersed camp areas will have no adverse effect to site 10 IH1411. None of the proposed resource protection measures will have any impact on any trail tread segments, and the proposed resource protection measures will also have no adverse effect to the Lolo Trail NHL (Project Record, Vol. 3, Doc. I-10, p. 80). The SHPO concurred with this determination in the Cultural Resource Report Summary, Report Number 2001-CL5-9 (Project Record, Vol. 3, Doc. 1-15).

**Contention 4.2:** Applying gravel for approximately 200 feet of Road 500 at the entrance station at Papoose Saddle will have an adverse effect by changing the primitive character of the road, and needs the approval of the ACHP.

**Response:** Applying gravel to the road for approximately 200 feet either side of the entrance and exit stations will act as a medium for holding dust abatement material, in order to reduce dust at the entrance and exit stations (EA, p. 2-16). The proposed gravel surfacing will have no effect to site 01-05-1106, and the proposed resource protection measures will also have no adverse effect to the Lolo Trail NHL (Project Record, Vol. 3, Doc. I-13, p. 25). The SHPO concurred with this determination in Cultural Resource Report Summary, Report Number 2001-CL5-4 (Project Record, Vol. 3, Doc. 1-16).

**Contention 4.3:** Excavating portions of 12 Mile Saddle will destroy the archaeological value of the site, and developing a modern campsite will destroy the character of the Lolo Motorway Corridor.

**Response:** Within the existing dispersed campsite and trailhead area at 12 mile Saddle, a loop road will be developed, along with 6-8 campsite spurs. The existing dispersed camping site will not be expanded by this project, nor will any construction be done within the adjacent roadless areas. A trailer parking area will be developed with a short-term use hitch rail constructed for use during unloading. Long-term hitch rails will be constructed a suitable distance from the camping areas to separate the stock facilities from the campsites. Portions of the site will need to be excavated and leveled. The parking area, camping facilities, and stock facilities will be permanent facilities and retained after the Bicentennial (DN, p. 7).

The intent of the proposal is to repair the damage that is occurring at this popular dispersed camping site and to prevent additional impacts in the future. The Forest is not proposing to construct a new camping area, only to repair problems caused by indiscriminate camping and stock containment at an existing site. The amount of proposed improvements would be commensurate with keeping the rustic character and feel of the area (Project Record, Vol. 2, Doc. E-2, p. 6).

The surface inventory of 12 Mile Saddle and the limited subsurface evaluations have confirmed the presence of a limited amount of prehistoric material at the site. This work has also shown that the area is highly disturbed and retains little surface or subsurface integrity within the boundaries of the dispersed campsite. The areas outside the boundaries of the dispersed campsite have not been evaluated as thoroughly. However, it should be pointed out that the dispersed campsite corresponds to the relatively flat areas. The areas surrounding the campsite are less suitable for camping and would be expected to have a lower artifact density. Given the present understanding of the site, it is believed that this site has no integrity and is not eligible for nomination to the NRHP (Project Record, Vol. 3, Doc. I-10, p. 56).

The proposed resource project activities at this location will have no adverse effect to the site reported in this location. The proposed resource protection activities and the proposed resource protection measures will also have no adverse effects to the Lolo Trail NHL (Project Record, Vol. 3, Doc. I-10, p. 56). The SHPO concurred with this determination in Cultural Resource Report Summary, Report Number 2001-CL5-9 (Project Record, Vol. 3, Doc. 1-15).

**Contention 4.4:** It appears the Weitas Butte Road 557 facilities have been dropped. The ridge top contains an ancient Nez Perce Trail, which was developed by the Forest Service as the access trail to the Weitas Butte Lookout. This old trail should be preserved. The EA does not discuss how this site will be protected.

**Response:** After the Informal Disposition Meeting, the Forest received notification from the appellants that they were dropping this contention. It will not be addressed further.

**Contention 4.5:** The planned Lewis and Clark Grove parking area will impact the Lewis and Clark Trail.

**Response:** Proposed resource protection measures at this location are improvements of the existing facilities. They call for expanding the parking area, installing hitch rails, replacing the interpretative sign, and replacing the existing toilet with a new vault toilet. All of these activities will take place in the existing fill zone and will have no effect on the nearby Lewis and Clark

Grove. None of the proposed resource protection measures will have any impact on any trail tread segments and will also have no adverse effect to the Lolo Trail NHL (Project Record, Vol. 3, Doc. I-10, pp. 88-89). The SHPO concurred with this determination in Cultural Resource Report Summary, Report Number 2001-CL5-9 (Project Record, Vol. 3, Doc. 1-15).

**Contention 4.6:** The Lewis and Clark Trail will be irreparably damaged by excavating the 10 log landings, particularly the one at Snowshoe Creek, and developing them into dispersed campsites.

**Response:** The appellants never mentioned concerns for this specific site during the scoping period or EA comment period. The Snow Creek site is one of eight log landings and two existing sites that are going to be converted into dispersed campsites in the portal area. There are no sites reported within 100 meters of this location and the survey of the location by the Forest Service did not locate any significant cultural resources. The proposed resource protection measures will have no effect on any known sites. None of the proposed resource protection measures will have any impact on any trail tread segments. The proposed resource protection measures will also have no adverse effect to the Lolo Trail (Project Record, Vol. 3, Doc. I-10, pp. 85-88). The SHPO concurred with this determination in Cultural Resource Report Summary, Report Number 2001-CL5-9 (Project Record, Vol. 3, Doc. 1-15).

## **Issue 5. Recreation.**

**Contention 5.1:** The Forest Service violated the NFMA and the Forest Plan by failing to establish carrying capacity for recreation and failing to maintain use within those limits.

**Response:** The DN addresses how the project is consistent with the NFMA and the Forest Plan (pp. 28 to 30). This narrative is very specific as to meeting the recreational goals, standards and guidelines within the Forest Plan.

Limits of acceptable change are identified as an objective in the Forest Plan under recreation and visual objectives as related to dispersed recreation areas (p. II-5) and states, "Manage dispersed recreational areas to maintain use within capacity as defined by measurable limits of acceptable change for the designated setting by 1995." The process of managing limits of acceptable change has been incorporated into the Lolo Trail National Historic Landmark and Lewis and Clark Bicentennial Resource Protection Plan (Project Record, Vol. 3, Doc. I-4) and the Monitoring Plan for the Lewis and Clark Bicentennial along the Lolo Trail National Historic Landmark (Project Record, Vol. 3, Doc. I-5). Both documents build on the capacity information gathered in inventories of existing and potential facilities along the Lolo Motorway (Project Record, Vol. 4, Docs. J-5 and J-6), the Lewis and Clark Bicentennial Camping Capacity for Contingency Implementation (Project Record, Vol. 4, Doc. K-19) and the Lewis and Clark Bicentennial Observance Resource Protection Strategy (Project Record, Vol. 4, Doc. K-20). I find the project is in compliance with the Forest Plan.

**Contention 5.2:** The EA and DN fail to meet NEPA and NFMA mandates by violating the Forest Plan by allowing motorized use in primitive and semi-primitive areas.

**Response:** The Recreation Opportunity Spectrum is addressed in the recreation section of the affected environment (EA, pp. 3-8 to 3-9). The recreation projects proposed for this area include very minor modifications to the landscape and are geographically dispersed so the effect on the

setting and recreation use of the Lolo Trail Corridor would be minimal and would continue to meet the designated Recreation Opportunity Spectrum standards (EA, p. 3-19).

**Issue 6. Roadless.** The DN is unclear whether we are having an impact to roadless areas, especially the Bighorn Weitas Roadless Area.

**Response:** After the Informal Disposition Meeting, the Forest received notification from the appellants that they were dropping this contention. It will not be addressed further.

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 Forest Supervisor's decision be affirmed and the appellants' requested relief be denied.

/s/ David M. Pieper  
DAVID M. PIEPER  
Appeal Reviewing Officer