



OCT - 4 2016

Board of Lincoln County Commissioners

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Thayne, Wyoming

925 Sage Avenue, Suite 302, Kemmerer, WY 83101 Phone: 307-877-2004
Email: commission@lcwy.org

September 30, 2016

Nora Rasure, Regional Forester
US Forest Service, Region 4
Federal Building
324 25th Street
Ogden, UT 84401

Re: Complaint Regarding Destruction of Lander Trail Segments

Dear Ms. Rasure,

Lincoln County files the following complaint against named and unnamed employees of the U.S. Forest Service for damaging segments of the Lander Cutoff Trail system without consultation as required under federal law and regulations and in violation of state law and Wyoming State Historical Preservation Office (SHPO) regulations. On September 21, 2016, a citizen reported that a segment of the historical trail system located in the Bridger-Teton National Forest (B-T) had been blocked and large branches placed across it. Some segments have been destroyed. Because there is no evidence that the Forest Service preceded this federal undertaking by consulting with Wyoming SHPO, the Lincoln County Historical Society, or Lincoln County, these actions violate state and federal law. Lincoln County asks that you initiate an investigation and pursue this complaint.

SITUATION

Lincoln County is of the information and belief that the Greys River Ranger District authorized the blocking of segments of the Lander Trail system and the placement of large tree limbs along with excavation of the trail from being used. Exhibits P9260103.JPG, P9260098.JPG, P9260095.JPG, P9260089.JPG, P9260100.JPG, P9260093.JPG, P9260101.JPG, P9260104.JPG, P9260092.JPG, P9260097.JPG, P9260091.JPG, P9260102.JPG, P9260096.JPG, P9260095.JPG. The soil for other trail segments has been disturbed so as to remove evidence of prior use.

Upon receiving the complaint, the Lincoln County senior planner Jonathan Teichert visited the sites on two occasions to investigate the work done, its location and the extent. His photographs show that the Forest Service work was done to close segments of Forest Road 10072E to motorized travel. Lincoln County Commissioner Robert King also visited the sites and took photographs.

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The attached photographs show the obstruction of the trail and the soil disturbance that appears to obliterate the road and evidence of past travel. Large branches were also placed within the right-of-way of the road and these branches prevent travel.

The affected trail segments, however, are clearly one of the alternate routes of the Lander Cutoff Trail system, as indicated by the grave site to the south on Forest Road 10072E. The Wyoming SHPO and an earlier Bureau of Land Management (BLM) both worked on the Wyoming historic trail context study. The reports document not only the construction of the trail but the development of many variations as settlers changed routes to avoid boulders, steep pitches or other threats. *NHTA Context Study* (BLM 2005) at 199; *The Way West: A Historical Context of the Oregon, California, Mormon Pioneer, and Pony Express National Historic Trails in Wyoming* (Wyo SHPO 2014) at 49-52.¹ The alternate routes are equally important from an historic perspective and are protected under the law as part of the historic context.

It is widely known within the Forest Service and the public that the Lander Trail has historical significance. It was established in 1857, constructed between 1858 and 1862, and is connected to the Oregon California Trail system. The Lander Trail has not been declared a historical landmark by the State of Wyoming, but the Wyoming SHPO recognizes it as a historic trail. *SHPO Context Study* at 49-52.

The 1990 Bridger-Teton Land and Resource Management Plan incorporates protection for this trail. Bridger Teton LRMP at 15.

Travel through the southern edges and portions of the Bridger-Teton National Forest started in the late 1850's with the emigrant travel to California, Mormon Country, and the Oregon Territory. The west side of the Continental Divide, between South Pass and the Green River was one of the most difficult sections of the original Oregon Trail. A safer and easier route was needed for westward expansion and the Lander Cut-Off helped fulfill that need. Fredrick W Lander, a surveyor with the Department of the Interior, surveyed the route in 1857, supervised road construction the following year, and from 1858 to 1860 built the entire portion of the road to California through the Bridger-Teton National Forest area.

Similar accounts can be found on the Wyoming SHPO web site and in the BLM Historic Trail Context Study (Mar. 2005) pp.199-200. All sources stress that while the Lander Trail or Lander Road was first constructed as a single road, the pioneers took detours so that the road might have several cut offs that would eventually return to the main route. *Id.*

¹ The SHPO Context Study only identifies 50 miles of trails in the National Forest but also states that the study was limited to public lands. SHPO Context Study at 11.

The Wyoming SHPO materials include a report explaining the important role the road system played in sheep trailing between Wyoming and California / Oregon. *Historical Context – Shepherd Camps in Wyoming* (Rosenberg 1982). Western Wyoming became the center of the sheep industry where operators grazed in the desert area in the winter and moved to higher pastures in the summer. *Id.* at 4-5. By the turn of the century, Lincoln County had a flourishing sheep industry. *Id.* at 2-3. The area still shows signs of sheep herder cairns and markers.

The Star Valley Historical Society in conjunction with the Lincoln County Historical Society have researched and preserved extensive documentation of early settlement in Star Valley as early as 1887 and the related commercial and farming work. The society established a monument to Lander, who engineered the Lander Trail and Lander Cutoff system. This monument was apparently destroyed in a truck accident. Ex. [Historical Society photo]. The communities in the Star Valley predate the establishment of the Bridger National Forest by several decades and these roads were part of the system to connect communities and to drive livestock.

The Bridger -Teton (B-T) National Forest web site also recognizes the Lander Trails as historic. Archeologist, Jamie Schoen (307-739-5523 jschoen@fs.fed.us) wrote the following:

The Lander Cut-off of the Oregon Trail

The main Oregon/Mormon Pioneer Trail² was established in the 1840s and passed just south of the present-day Bridger-Teton National Forest. This trail crossed the alkaline desert with little water or feed for the livestock. A safer and easier route was needed for the pioneers crossing western Wyoming.

In 1857, Engineer Frederick W. Lander surveyed a new route across the Green River Basin and into the mountains of the Wyoming and Salt River Ranges. The Lander Cut-off was the first federally funded road project west of the Mississippi. Over 13,000 emigrants traveled the road in its first year of use. The cutoff was 250 miles' total that required 19 days of travel, including breakdowns. The use of the trail declined rapidly after 1867 when the transcontinental railroad was constructed across southern Wyoming; however, the last reported covered wagon seen on the road was in 1912.

Much of the Forest section of this historic trail can be traced along roads and trails with trail ruts and emigrant graves still visible. A Lander Cut-off brochure is available at Forest Service offices to assist you in following the trail and learn more about it.

² The Forest Service web site links the Lander Trail to the Mormon Trail but it was built as an alternate route. *Final NHTA Context Study* at 200.

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To learn more about the Lander Cut-off and other emigrant trails in Wyoming visit the Wyoming State Historic Preservation Office's website at <http://wyoshpo.state.wy.us/trailsdemo/index.htm>.

The Lander Trail is also commemorated at an historical park near Pinedale, Wyoming Lander Trail Historical Park:

This 100-acre park is located on the west bank of the New Fork River in western Wyoming, where tens of thousands of emigrants using the Lander Trail crossed in wagons and often camped, half-way on their long journey west. Today, nearly all major emigrant crossings now lie on developed private land. This park provides you a self-guided opportunity for access to a river crossing that remains undeveloped and much like it looked when emigrants passed through here in the 1860s.

LEGAL ANALYSIS

The Lander Trail is protected as a cultural resource under the National Historic Preservation Act (NHPA), 54 U.S.C. §§306101-306109; 18 U.S.C. §1866; 36 C.F.R. §800.3; and Forest Service policy. The alteration or destruction of such resources is subject to a \$500 fine and 90 days in jail. 18 U.S.C. §1866. The remnants of livestock use in the early 20th Century enjoy equal protection under the NHPA. Efforts to obliterate these trails without consultation and clearance violate the law and agency policy.

Forest Service (FS) line officers are not permitted or allowed to use their authority to deliberately alter or damage a historic site, such as the Lander Trail. If any other employee in the Ranger District participated then he or she is equally responsible and liable.

Under the NHPA, the Forest Service is required to consult with Wyoming SHPO, Lincoln County, and the local historical societies. 54 U.S.C. §306108; 36 C.F.R. §800.1(c); 800.3. This consultation did not occur. To the extent the Lander Road system is considered part of the Oregon-California Trail, the Oregon California Trail Association should also have been consulted.

The Forest Service employees instead altered potentially protected sites under the guise of closing routes to motorized vehicle use. This arbitrary and capricious decision leading to the malicious damage of this cultural resource has both civil and criminal implications. The employees of the Ranger District knew or should have known that the trails were associated with the Lander Trail system, which is evident from the posting on the B-T National Forest web page by Forest Archeologist, Jamie Schoen and the provisions in the LRMP.

Forest Service line officers (District Rangers, Forest Supervisors and Regional Forests) are not permitted to approve agency actions that alter cultural and historical resources without extensive

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consultation and mitigation. The same punishment that comes to private citizens for the same act applies to the Forest Service line officers who commit or condone such actions.

Wyoming State Historical Preservation Officer, Mary Hopkins (307-777-6311) was not contacted or consulted with on this action.

REQUEST

Lincoln County asks that an investigation, both civil and criminal, into this action begin immediately by the Wyoming State Historical Preservation Officer, Forest Service Law Enforcement, Forest Service Washington Office Administration and the National Park Service Law Enforcement.

The investigation should include the following individuals to ascertain if they had knowledge or had authorized the closure efforts without consultation under the NHPA.

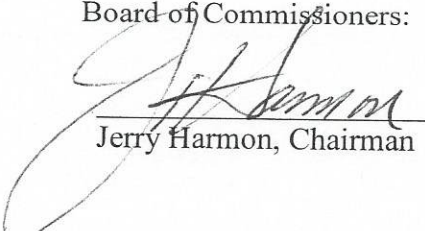
1. Region 4 Regional Forester - Nora Rasuer
2. Region 4 Resource Directors
3. Bridger Teton National Forest Supervisor - Tricia O'Connor
4. Bridger Teton National Forest Resource Directors
5. Greys River District Ranger - Richard Raione
6. Bridger -Teton (B-T) National Forest Archeologist - Jamie Schoen
7. Sid Woods, recreation planner
8. Don DeLong, wildlife biologist

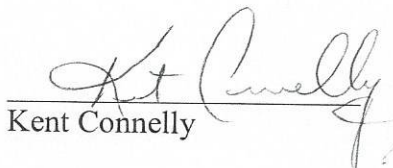
All employees involved in the action and decision should be placed on administrative leave until this investigation is completed.

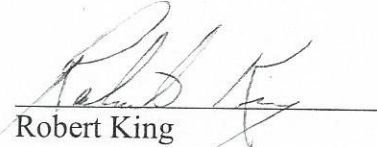
Thank you for your cooperation.

Sincerely,

Board of Commissioners:


Jerry Harmon, Chairman


Kent Connolly


Robert King

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cc: Tom Tidwell, Chief U.S. Forest Service
Honorable Mike Enzi, U.S. Senator
Honorable John Barrasso, U.S. Senator
Honorable Cynthia Lummis, Congressman
Honorable Stan Cooper, Wyoming Senate District 14
Honorable Dan Dockstader, Wyoming Senate District 16
Honorable Robert McKim, Wyoming House District 21
✓ Honorable Marti Halverson, Wyoming House District 22
Honorable Fred Baldwin, Wyoming House District 18
Jessica Crowder, Policy Advisor Governor's Office
Pete Obermueller, W.C.C.A. Executive Director



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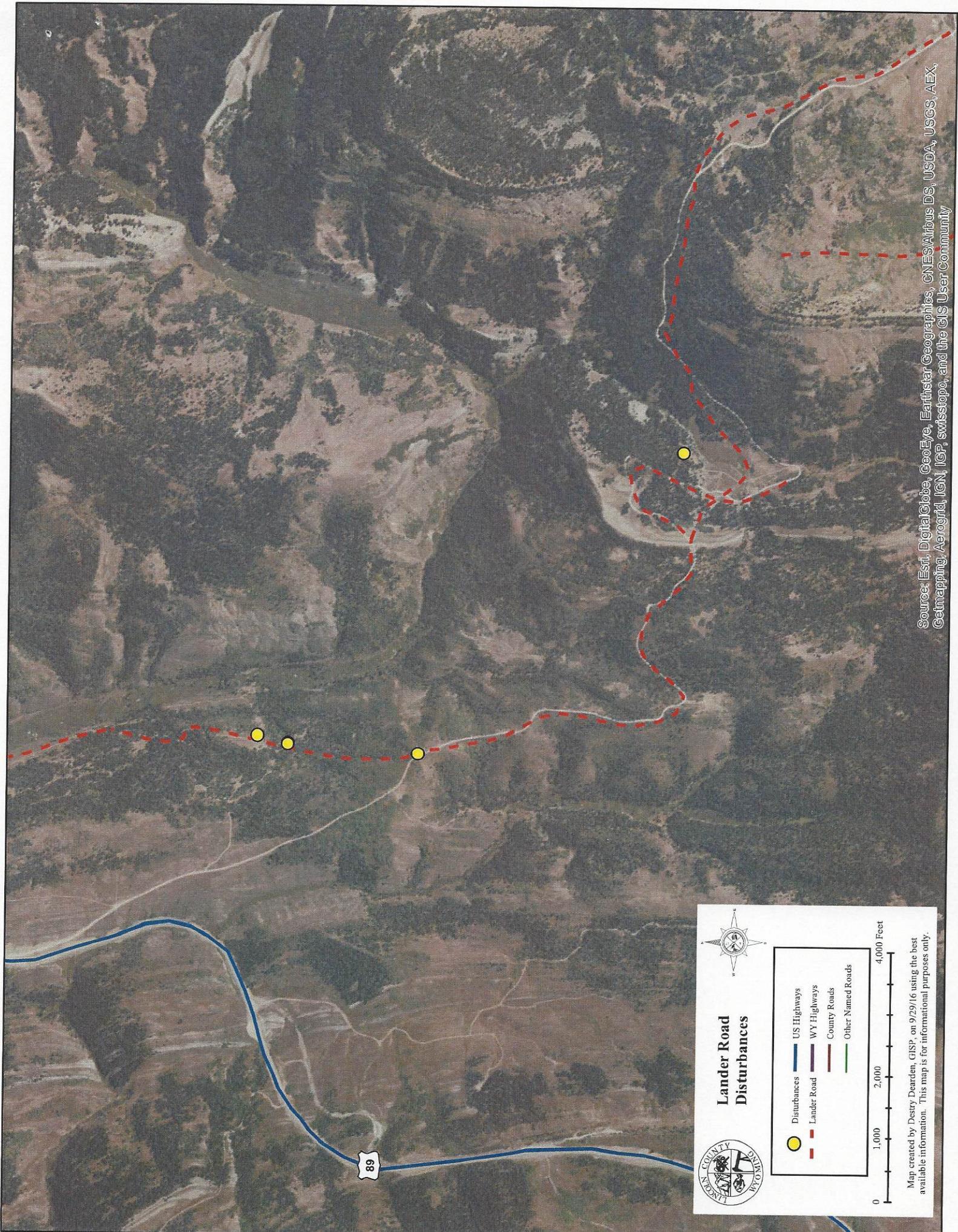
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



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Lander Road Disturbances

	Disturbances
	US Highways
	WY Highways
	Lander Road
	County Roads
	Other Named Roads



Map created by Destry Darden, GISP, on 9/29/16 using the best available information. This map is for informational purposes only.

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community