

Nomination Received by Council on Environmental Quality, Executive Office of the President
For the CEQ NEPA Pilot Project Program
<http://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/nepa-pilot-project-nominations>

PART I. NOMINATOR

First Name:	Bridget
Last Name:	Petrucci
Organization:	[None]
Project Title:	[None Submitted]
Submitted by:	Member of the Public
Date Received:	06/14/2011

PART II. SHORT ANSWERS

I. What Federal agency or agencies will be involved in this pilot project?

(1) United States Department of Agriculture (USDA), Forest Service, Lolo National Forest
(2) United States Department of the Interior (DOI), Fish and Wildlife Service, Mountain-Prairie Region

II. What is the Federal action to which this NEPA pilot project applies?

Small, family-owned company proposes road access across Federal land to reach their property, hereafter referred to as the A.P.A. Lode, at Section 35, T.8N, R.17W for year-round residential purposes.

After acquiring the A.P.A. Lode in 2004, the Landowner contacted the Lolo National Forest, requesting an access road that would cross Forest Service land to reach the A.P.A. Lode in an area adjacent to other private landowners, the historic Annie Morgan Homestead, and a Forest Service cabin. The Forest Service denied the request, claiming that the Landowner could instead walk into the property. In October 2006, after continued correspondence between Landowner and Federal agency, the Landowner again submitted a road access proposal. Despite the convenient location of the property (70-ft northeast of Forest Service Road 102) and despite the primitive existence of a pre-existing road that leaves Road 102 in the direction of the property, the access proposal has not yet been accepted by the Forest Service.

III. How will this pilot project reduce the costs and time needed to complete the NEPA process?

The current approach has resulted in significant time lost and cost to both the Forest Service and the Landowner with no resolution in sight. How could Forest Service concerns be reconciled with the Landowner’s access request? What are the potential impacts? What mitigation would be necessary to ensure environmental protection? These are the questions that address the intent of NEPA, and therefore, these are the priorities of the proposed pilot project. Ongoing correspondence with the Forest Service has established that (a) this agency is interested in acquiring the A.P.A. Lode and (b) agency requirements are dynamic, overly burdensome, and—given that they are levied against an action proponent that is not a Federal agency—impractical and intimidating.

The purpose of NEPA is to, “encourage productive and enjoyable harmony between man

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and his environment.” Consider whether the following statements support this purpose (from an October 2010 Forest Service letter):

- **As you know, the Forest Service is very interested in acquiring this property.**
- **One point of clarification to this proposal is the intended use of the property, which was stated in your August 3, 2010 letter as “year-round residential purposes.”**
- **The planning schedule for NEPA projects is already established for 2011. The NEPA analysis for the access proposal could be initiated in 2012. The NEPA planning could be initiated sooner if (the Landowner) wants to contract with a third party NEPA contractor.**
- **A site-specific Forest Plan amendment would be necessary.**
- **Road construction/reconstruction within Inventoried Roadless Areas requires approval by the Secretary of Agriculture. Because a portion of the proposed road lies within inventoried roadless, this required approval would be a part of the analysis process subject to Cost Recovery.**
- **As I mentioned above, the Forest Service is very interested in acquiring this parcel of land.**

Given that there are various access roads adjacent to the A.P.A. Lode, and given that impacts to the environment from the proposed access road have already been addressed by other roadway projects connecting to Forest Service Road 102, the level of NEPA analysis required by the Forest Service would only duplicate existing analysis. This pilot replaces duplication with review, simplifying NEPA implementation practices and creating a more efficient and cost-effective approach.

IV. How will this pilot project ensure rigorous environmental protection?

Rigorous environmental protection is ensured by leveraging existing analysis and examining similar access already implemented off of Forest Service Road 102. Lessons learned from existing area access roads would be applied to this and future proposed access. In addition, the proposed access road would be subject to the same environmental mitigation and operation and maintenance plans and procedures required of similar area roads. One desirable side-effect of the pilot would be better management of invasive weeds, thereby supporting the following Forest Service Environmental Management System (EMS) objective: “Reduce invasive weed introduction or spread through improved and more effective control and management.”

Executive Order 13112 requires Federal agencies to use relevant programs and authorities to prevent the introduction of invasive species and to not authorize or carry out actions that are likely to cause or promote the introduction or spread of invasive species. Currently, access to the land requires walking through a tremendous volume of invasive weeds, thereby encouraging their spread. The Forest Service has also suggested an ATV could be used to access the site, which would require driving through large populations of invasive weeds. With weed management addressed in the access road operations and maintenance plan, the spread of invasive weeds will be reduced and the Landowner will have better access to managing invasive weeds that have encroached upon the property from adjacent Forest Service lands.

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Given the volume of invasive weeds in the area proposed for road access, the road itself will be an immediate environmental mitigation.

There is also a potential public benefit to this pilot that would benefit the environment. The proposed pilot offers the Forest Service an opportunity to provide the public with an additional camp-site where Forest Service Road 102 meets the proposed access road. With another public campsite, one more Forest user will not have to setup their camp in an invasive weed-infested area.

Finally, as with any road, if unforeseen and undesirable environmental impact results from construction, maintenance, and use of the road, the road could be reclaimed using native vegetation and well-established reclamation practices.

V. How will this pilot project improve the quality and transparency of agency decisionmaking?

The pilot project tailors applicable environmental analysis previously conducted and associated decisions to meet a current need, allowing the agency to use proven methods, while identifying opportunity for continual improvement. In this case, proposed road use is similar to that previously implemented in the area, but the proposal submitted herein improves upon this road use by addressing agency EMS objectives and proposing a benefit to the public.

“NEPA’s purpose is not to generate paperwork...but to foster excellent action.” Given the current agency approach, the access proposal is no closer to resolution than when originally proposed to the Lolo National Forest 6 years ago. Environmental impacts from roadways in this forest have been exhaustively evaluated under NEPA; therefore, only environmental impacts unique to each specific request need to be considered. This presents an opportunity to reduce paperwork and shorten timelines, simplify NEPA implementation, increase efficiency, and decrease cost.

VI. Will this pilot project develop best practices that can be replicated by other agencies or applied to other Federal actions or programs? Please describe?

Yes. This pilot proposes an approach that streamlines the NEPA process, ensures best practices recognized from similar actions are integrated (to the extent possible) in this action, and provides a process that can be tailored to future projects. In addition, the proposed pilot aligns NEPA with the agency’s EMS, thereby developing best practices in accordance with CEQ guidance (April 2007). By pooling available resources and lessons learned to make consistent NEPA decisions, with an emphasis towards continuous improvement, this pilot provides a system-of-systems model to NEPA implementation.

PART III. PROJECT DESCRIPTION

(See attachment on following page.)

PROJECT DESCRIPTION:

Agencies involved and the geographic area affected are discussed elsewhere in this proposal. Natural resource management issues will be those common to road construction in the area and will include invasive weed management considerations (also discussed elsewhere in this proposal). This pilot nomination is a new proposal for previously requested road access.

The Landowner will propose a road access design prepared by a registered, professional civil engineer. The engineer will demonstrate that the proposed design provides for minimum environmental impact and is consistent with other roads in the area. This approach to NEPA would eliminate duplication of efforts previously performed for area roads; instead, the pilot approach leverages environmental analyses and decisions previously applied. Any mitigation requirements for existing area road construction will be integrated into the design, construction, operation, and maintenance of the proposed road, as applicable. Project timeframe will allow the Federal agencies involved to identify any environmental impacts unique to this access road, thereby allowing additional mitigation as needed. Given that the access road will depart from a road that is sprinkled with various road-side camping sites, the Forest Service will have the option of establishing another roadside camping access where the access road leaves Forest Service Road 102, provided the camping access is consistent with design and intended use of other single-use camping sites in the area. Construction of the road will be performed by a contractor familiar with area road construction and agency construction procedures and requirements. The Landowner will select the construction contractor from a list of qualified contractors provided by the Federal agencies involved.

The first milestone is the pilot kick-off meeting, occurring within 30 days of pilot approval (allowing sufficient time for civil engineer selection and resolution of any scheduling conflicts). The Landowner, Federal agencies involved, and the civil engineer will develop a formal project timeline at the kick-off meeting, and the civil engineer will identify any needed documentation known at that time. Federal agency concerns unique to the proposed access road will be provided, as available, at the kick-off meeting. After the meeting, the Federal agencies, in accordance with the timeline, will provide supporting documentation as requested by the civil

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engineer. Any other supporting documentation needed to ensure road design in accordance with the requirements previously described will be identified by the civil engineer and provided by the Federal agencies. The next milestone will occur when the road design is submitted to the agencies, along with an operations and maintenance plan. A review and comment period will follow; then, the timeframe will allow mitigation and conflict resolution prior to a construction milestone. Completion of the project will depend on a number of factors commonly encountered during road construction—weather, public use of Forest Service Road 102, area wildlife activities, etc. However, the road construction milestone would be established at the kick-off meeting as would a timeframe for public notification, review, and comment.

The Landowner will fund road design and construction, including an access area for a public campsite, if desired by the Forest Service (determined at the kick-off meeting). The Federal agencies involved will, as applicable:

- Provide supporting documentation (other area road design, operations and maintenance documentation, NEPA documentation, etc.);
- Review the Landowner's proposal and provide comments;
- Solicit public comment;
- Identify any considerations and recommendations unique to the Landowner's proposal;
- Provide a list of at least three road construction contractors that the Landowner may choose from; and
- Other actions determined at the kick-off meeting.

In addition to administration priorities addressed elsewhere in this nomination, the pilot also supports the direction provided in a 31 DEC 99 White House press release. In this release, President Obama called upon all executive branch agencies to promote public involvement and transparency in their implementation of NEPA, and he encouraged Americans to learn more about NEPA and how we can all contribute to protecting and enhancing our environment. When public comment is solicited for the proposed road access design, they will be advised that they are commenting on a NEPA pilot program. Public, Federal agency, and Landowner feedback, as well as continued monitoring of effects after construction of the access road will assist the CEQ

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in determining whether this pilot effectively modernizes and reinvigorates Federal agency NEPA implementation.

To ensure all potential environmental impacts are sufficiently addressed, this proposal recommends that both the U.S. Fish and Wildlife Service and the U.S. Forest Service participate in this pilot.