

## **Submitted Rulemaking Comments (U.S. 12)**

Below is a listing of the public comments the Idaho Transportation Department received regarding IDAPA 39.03.11 – Rules Governing Overlegal Permittee Responsibility and Travel Restrictions. The open comment period was 9/7/16 - 10/14/16.

To review the comments, please go to the listed page numbers. Thank you!

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**IDAPA 39 TITLE 03 CHAPTER 11**

**39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (10-2-89)

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.11, "Rules Governing Overlegal Permittee Responsibility And Travel Restrictions," IDAPA 39, Title 03, Chapter 11. (4-5-00)

**02. Scope.** This rule states the responsibility of the permittee and the travel restrictions for overlegal loads. (4-5-00)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. (3-10-05)

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-10-05)

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (3-10-05)

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street and Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise, ID 83707-1129. (3-10-05)

**02. Office Hours.** Daily office hours are 7:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (3-10-05)

**03. Telephone and FAX Numbers.** The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 208-334-8419. (3-10-05)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Title 74, Chapter 1, Idaho Code. (3-10-05)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

Refer to IDAPA 39.03.01, "Rules Governing Definitions," for definitions of the terms used in this rule. (10-2-89)

**011. -- 099. (RESERVED)**

**100. RESPONSIBILITY OF PERMITTEE. Section 000 Page 2 7/11/2016**

**01. General Responsibilities.** The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a overlegal permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (4-5-00)

**02. Permit to Be Carried in Vehicle.** (1-3-93)

**a.** The overlegal permit must be carried in the vehicle to which it refers during the time of movement and shall upon demand be delivered for inspection to any peace officer or authorized agent of the Idaho Transportation Board or any officer or employee charged with the care and protection of the public highways. (3-30-07)

**b.** When the route of the permitted vehicle will not pass in the vicinity of a state operated transceiver station, the applicant may complete Form ITD-216, APPLICATION FOR OVERLEGAL PERMIT NUMBER, and provide pertinent information by telephone to the overlegal permit office. If the overlegal permit office approves the application, a overlegal permit number will be assigned to complete the Form ITD-216. Form ITD-216 will serve as evidence of intent to obtain the overlegal permit and will be honored by law enforcement subject to the officer checking with the overlegal permit office. The applicant must qualify for this procedure by obtaining a permit fee account number. The overlegal permit office will complete the Overlegal Permit Form ITD-216 and charge the fee to the applicant's permit fee account number. (IDAPA 39.03.21, "Rules Governing Special Permit Fees," Section 300.)

**03. Certification Load Is Non-Reducible.** Upon application, the permittee must certify that steps have been taken to reduce the dimensions and/or weight of vehicle and/or load concerned in the permit to legal limitations, or if that is impractical, to reduce the excess to a minimum. (8-25-94)

**04. Basic Limitations Shall Not Be Exceeded.** Overlegal permits shall not be issued for vehicles or loads in excess of the maximum limitations of size or weight or which otherwise exceed the limitations for over legal loads as set forth in these rules unless exception is made by the Transportation Board, or as otherwise provided herein. (4-5-00)

**05. Movement, Traffic Control Plans, Loading, Parking on State Highways.** (3-30-07)

**a.** The movement of over legal loads shall be made in such a way that the traveled way will remain open as often as feasibly possible and to provide for frequent passing of vehicles traveling in the same direction. In order to achieve this a traffic control plan is required to be submitted when operating on two (2) lane highways and exceeding the following dimensions: (3-30-07)

i. Width exceeds twenty (20) feet. (3-30-07)

ii. Length exceeds one hundred fifty (150) feet. (3-30-07)

**b.** The traffic control plan shall be prepared by a licensed engineer or an American Traffic Safety Services Association (ATSSA) certified traffic control supervisor and include the following information: (3-30-07)

i. Locations and mileposts of where the vehicle/load can pull over to allow for traffic relief; (3-30-07)

ii. How pilot cars and traffic control personnel will be utilized; (3-30-07)

iii. Identification of any railroad tracks being crossed and the emergency contact number for the governing entity; and (3-30-07)

iv. Procedure for allowing emergency vehicles to navigate around the vehicle/load when necessary. **Section 000**

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(3-30-07)

c. The over legal vehicle shall not be loaded, unloaded or parked, upon any State highway, except for emergencies, without the specific permission or by direction of the Department or policing agency having jurisdiction over such highway. (1-3-92)

**101. -- 199. (RESERVED)**

**200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.**

Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

**01. Red-Coded Routes.** Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

**02. Black-Coded Routes.** Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

**03. Interstate.** Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel daylight hours, seven (7) days per week. (4-5-00)

**04. Nez Perce - Clearwater Forest Safety and Travel Requirements.** As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce - Clearwater Forest (US 12 from milepost 74 to 174).

a. The Forest Service has issued the following written criteria to determine which "oversize" loads will be

subject to Forest Service review:

i. Load exceeds sixteen (16) feet wide, and/or one hundred and fifty (150) feet in length.

ii. Load movement requires longer than twelve (12) hours to travel through the designated mileposts.

iii. Load movement requires physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

b. For those loads meeting any of the criteria above there will be additional safety requirements for the movement of such loads on US 12 from milepost 74 to 174. These additional safety requirements include, at a minimum, the following:

i. ~~Ambulances and possible law enforcement escorts to ensure public safety. Carrier will contact local emergency services and provide contact information for the haul vehicle as well as haul schedule. Local law enforcement may be required to escort haul vehicle.~~

ii. ~~Safety lighting will be addressed so as to not create a safety hazard to the traveling public.~~

iii. ~~Loads cannot utilize turnouts - which are designated for recreational vehicles for non-emergency parking.~~

iv. Time of travel will be determined based on traffic volume and best interest of the public ~~and the carrier~~. Night time movement may be required and/or movement may be restricted during holidays or weekends.

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**Comment [ez1]:** This should be removed. IDOT already has a rule that addresses lighting on haul vehicles to ensure safety to traveling public.

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**Comment [ez2]:** Suggest Changing wording to: Loads can not utilize the (3) current forest service designated recreational turnouts along the route for overnight parking.



v. Loads **may** require a vehicle safety inspection by the Idaho State Police or equivalent agency of another jurisdiction prior to issuance of a permit.

vi. ITD **may** monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time. ( )

Deleted: shall

**045. Additional Restrictions.** (8-25-94)

a. Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)

b. Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)

c. The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)

d. Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

**05. Hours Of Darkness.** Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

**067. Heavy Commuter Traffic Restrictions.** The movement of oversize permitted vehicles or loads which are in excess of thirteen (13) feet in width, may be prohibited from movement on highways all state and interstate within one (1) mile of the city limits of the following cities: Boise, Caldwell, Coeur d'Alene, Eagle, Emmett, Idaho Falls, Meridian, Middleton, Nampa, Pocatello, Star, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Authorized oversize permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. Restrictions to the operation of oversize permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (3-30-07)

**078. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

**089. Delaying Movement.** Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

**0910. Map Resources.** The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

**201. -- 999. (RESERVED)**

Nancy Chaney  
1333 Ponderosa Dr.  
Moscow ID 83843-9445  
[nchaney@moscow.com](mailto:nchaney@moscow.com)

Sept. 24, 2016

Idaho Transportation Department  
Attention: Ramon Hobdey-Sanchez  
PO Box 7129  
Boise ID 83707-1129  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

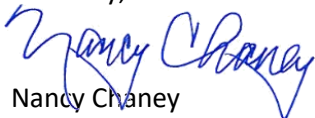
RE: Public comments on proposed rulemaking for oversize shipments on U.S. Highway 12

Idaho Transportation Department: Please consider the following comments for the public record.

- ITD's press release, issued on September 7, reiterates that a federal judge affirmed the U.S. Forest Service's obligation to regulate oversize loads traveling through the Clearwater National Forest. The press release does not make clear why ITD now presumes to engage in autonomous rulemaking beyond that federal authority, particularly when based on USFS "interim" (i.e. not-yet-adopted) criteria. Please clarify your agency's justification for that action.
- In 2013, a federal judge ruled in favor of the Nez Perce Tribe and Idaho Rivers United, who sought to protect the natural, cultural, and recreational character of the Middle Fork Clearwater and Lochsa Rivers. The corridor's federally-designated status as "Wild and Scenic" is rare, representing less than ¼ of 1% of rivers nationwide, and less than 1% of rivers in Idaho. We have a legal and sacred obligation to honor this resource, which belongs as much to future generations and non-human beneficiaries as it does to us. The contemplated transition to an industrial corridor for transport of non-reducible oversized megaloads is contrary to that obligation, counter to ITD's own mission to protect public safety, and in conflict with the recorded River Plan (<https://www.rivers.gov/documents/plans/clearwater-plan.pdf>).
- In this circumstance, ITD's rulemaking process has been less than transparent. Hopefully, the Sept. 28 public hearing will be the first step toward improving public communication about this important and controversial matter. Ironically, the Wild and Scenic Rivers Act will be celebrating 50 years in 2018, so lack of transparency won't even be an option. Rivers bearing that coveted designation will be in the national spotlight. What an embarrassment it would be to Idaho to see nationally-distributed images of megaloads, chugging and scraping their way along Highway 12. What a deterrent it would be for visitors, who might otherwise spend their recreational dollars here.

I oppose escalating the intensity of commercial transport within the Wild and Scenic River Corridor along Highway 12. Alternative routes may be longer, but ought not have the same limitations related to public safety, protected status, or unresolved legal challenges. ITD must defer to the federal court and the U.S. Forest Service, subsequent to completion of that agency's study and consultation with the Nez Perce Tribe. ITD rulemaking is premature at best. Thank you for your consideration.

Sincerely,

  
Nancy Chaney

9/23/2016

Ramon Hobdey-Sanchez, [Ramon.Hobdey-Sanchez@ITD.IDAHO.GOV](mailto:Ramon.Hobdey-Sanchez@ITD.IDAHO.GOV)

Dear Sir: Thanks for your interest in public comment on the proposal to adopt Forest Service Guidelines for allowing mega loads to use US 12 from Lewiston to Lolo Pass and on into Montana. I read the guidelines and looks to me like they simply require some rudimentary reviews and support. But I'm disappointed in the Forest since I don't support use of US 12 by loads exceeding overlength truck/trailer combinations. Loads that must cover both lanes and require modification of the physical character of this travel corridor and travel other than during normal use periods of daylight should not be allowed. I appreciate the Forest role since this road passes through the Clearwater National Forest and along the Lochsa and Middle Fork Wild and Scenic Rivers. I can support these guidelines. But short of making a case that they can use the interstate highway system and did a couple years ago by reducing load size, I'm disappointed they don't go further.

I am a native of this part of Idaho. I enjoyed a 36 year career with the Forest Service, working backcountry roads and trails on the NezPerce and Bitterroot National Forests. I've driven US12 countless times. I engaged in the mega load issue in 2010 with some of the following comments:

- a. Past trucking mishaps have already spilled gallons of oil and gas into the Lochsa River. Soils in that area as well as many other areas in the surrounding National Forest are unstable and prone to slide when saturated. Slide debris and driving at night at speed cause mishaps.
- b. One truck leads to 100. Once we allow this action, oil extraction companies will continue to push for a commercial corridor since there are no overpasses to deal with. I fear that will lead to a steady use by large loads, instigated by the Port of Lewiston which is struggling to remain profitable. The Port of Portland is tied to the Lewiston port and its not taking international shipments like it used to.
- c. Oil sands extraction is destructive and many of these loads were intended for use in Alberta tar sands. I expect that will continue as its lucrative for oil producing companies. I can't support activities tied to environmental destruction and associated native Indian health issues in that same area from oil sands extraction. The US should focus efforts on energy efficiency and conservation. Allowing these loads to pass over US 12 does not support either effort.
- d. Any benefits to local economies is short lived, as I see it. Consequences of a mishap with a large load could cause long-term damage to native fisheries, water quality and normal uses of this highway.
- e. US 12 has been a Scenic Byway since 1989 as well as the designation of All-American Road in 2005. Landowners in many cases opted into scenic easements on properties along US 12, which promised to protect the view from riverside properties from commercial development or residential subdivision. Oversized shipments conflict with those national designations which were supported by the state. Tourist dollars are much more reliable to the local communities than large load truckers. In 2011, at least one local realtor expressed concern that land values tied to scenic easements along US 12 could be impacted by the

proposal for multiple oversized shipments further reducing potential sales and associated tax dollars for the county. A domino effect tied to an increase in industrial truck traffic.

I live in this part of Idaho because roads are narrow and traffic volume is low. I like to recreate on National Forest, fish our streams and float rivers with my wife. A slower pace is what many of our friends and family appreciate about north-central Idaho. We all contribute to the interstate highway system. I-84 over Lookout Pass is accessed by interstate highways clear from the coast where international ships dock and unload cargo. I don't see why the State of Idaho can't accept that every road is not usable by every vehicle. They aren't and that's a safety issue as well as a commercial consideration. Narrow, winding roads are the reason the local mill is pushing for extra length and weight truck loads. Truckers don't prefer these roads and I don't blame them. It's scary to meet a semi-truck/trailer combination on a dark, rainy or snowy night on a narrow, two-lane road. Please leave the mega hauling to the interstate highway system and minimize use of US 12 by oversized loads.

Sincerely,

Nick Hazelbaker, 481 Lee Road, Harpster, Idaho 83552 (208) 926-0934

September 26, 2016

Idaho Department of Transportation:

My family and I have recreated in the Lochsa River corridor for approximately 35 years. Our activities have included fly fishing, camping, berry picking, foraging for mushrooms, and bird watching. For me, the Lochsa River corridor is one of the most beautiful drives in the western United States. The outstanding beauty of this river corridor was acknowledged on a national level with its inclusion as one of the original Wild and Scenic Rivers under the National Wild and Scenic Rivers Act in 1968.

I was appalled that the Idaho Transportation Department (ITD) initially approved megaloads on this section of Highway 12 for a variety of reasons. Given the resoundingly negative public response to allowing megaloads on this Wild and Scenic River I am overwhelmingly appalled that ITD is once again apparently interested in allowing, or even encouraging, this potentially disastrous activity.

Megaloads are a serious infringement on the natural beauty of this area. These huge loads are completely out of scale to the topography of the Lochsa River corridor. I have seen them ponderously creeping along Highway 12 with their caravan of accompanying vehicles. This is no place for them.

A megaload accident in the Northwest Passage Scenic Byway would be a national disaster. If a megaload were to go into one of the rivers along which it moves there would be countless damage to the animals, insects, and plant life which exist in this pristine aquatic environment. The Lochsa River corridor is home to the Westslope Cutthroat trout which now exists in only 5 percent of its indigenous habitat. The Lochsa and its tributaries are spawning waters for steelhead salmon and Chinook salmon. During my trips to the Lochsa corridor I frequently see osprey, wild turkeys, deer, and king-fishers.

A megaload accident would spill large quantities of gasoline or diesel into the river and possibly antifreeze, brake fluid, and automatic transmission fluid. In 2010 I witnessed and smelled the immediate aftermath of a tanker truck accident and the resulting spill of thousands of gallons diesel at Lost Creek – a tributary of the Lochsa. In 2011 I saw the large rolls of newsprint floating in the Lochsa in the mid-150s long after another trucking accident. Accidents happen frequently along this narrow, winding stretch of highway. It was not intended for huge megaloads.

In early 2013 a megaload of oil refinery equipment on its way to Canada ran off the highway in eastern Montana. The removal of this megaload required two huge cranes and two crews of workers. The footprints of these cranes were so large that the highway and ground around the accident were not wide enough to support them. Large amounts of gravel were dumped along the side of the highway to create solid pads for the cranes. The fill was later removed. Accidents happen. Indeed, serious accidents happen. This type of megaload accident could happen on the Wild and Scenic Lochsa River. However, many sections of Highway 12 along the Lochsa River are not wide enough to support such cranes. On some these sections of Highway 12 there is basically no shoulder that can be filled to create

the pad needed for these huge cranes. The area by Lost Creek where the diesel tanker accident occurred is just one example.

Despite the plans of Exxon/Mobil and ITD to make the movement of megaloads over Highway 12 less than completely inconvenient for other traffic on this highway, I witnessed a megaload and its caravan of police vehicles and an ambulance enter Lowell, Idaho one night. The megaload pulled off onto a turnout but the police blocked traffic going in both directions for much longer than the time which I believe they were allowed. In addition, friends of mine observed a megaload blocking traffic on Highway 12 at the Fish Creek bridge for substantially longer than allowed under ITD policy. Megaloads have broken the rules set forth by ITD in the past. I have no reason to believe that they will obey any new rules to be established by ITD.

Megaloads are an assault on the aesthetic values of the Wild and Scenic Lochsa River corridor. They are a substantial nuisance to other travelers on Highway 12. Megaloads travelling across this portion of Highway 12 also present the possibility of an environmental disaster. Megaloads should not be allowed to travel through the Wild and Scenic Lochsa River corridor.

Signed,

Eric L. Jensen

1907 Rolling Hills Drive

Moscow, Idaho 83843

From: Borg Hendrickson  
Sent: **Tuesday, September 27, 2016 11:22 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Comments: Rule ADAPA 39.03.11

Mr. Hobdey-Sanchez & other interested ITD Staff:

Please accept and consider my comments below regarding ITD's proposed Rule ADAPA 39.03.11 regarding shipments of oversize, non-reducible loads on U.S. Highway 12.

1. The Lochsa-Clearwater Wild & Scenic corridor through which U.S. Highway 12 runs belongs to the American people. Likewise, the Northwest Passage Scenic Byway, the Lewis & Clark Trail route, and the Nez Perce National Historical Park – all designations of U.S.12 through Idaho – are national treasures deserving of full respect for their exceptional qualities and for the laws related to them. ITD's reckless disregard for these designations and their exceptional qualities are reflected in ITD's attempts to industrialize the corridor by permitting oversize, non-reducible loads, aka "megaloads" – including ITD's current Rule ADAPA 39.03.11 rulemaking process. ITD does not "rule" U.S. 12. ITD's role is not to industrialize a national treasure.

2. As ITD knows, plaintiffs and defendants in the "megaload" legal case are engaged in *ongoing* mediation regarding oversize non-reducible shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. That mediation has not yet reached resolution, which makes ITD's current ADAPA 39.03.11 rule-making process inappropriate, unnecessary, and ridiculous.

3. ITD indicates that the new rule's "goal is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12."

A. Since ITD has not in the rule spelled out the concerns of the federal litigants, the public can not determine which "concerns" are being addressed, nor evaluate how or how well ITD is addressing those concerns with Rule ADAPA 39.03.11. ITD must delineate those concerns in the rule and detail how ITD is addressing them.

B. As per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court, not in the hands of ITD. That is, ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply stop permitting such loads.

C. The broader public represented by the federal case plaintiffs oppose all permitting of oversize, non-reducible "megaload" shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since 2010, that opposition has been clearly, loudly expressed. ITD knows, therefore, that this proposed rule is, in total, opposed by a multitude of citizens (including me).

4. In its FAQs for Rule ADAPA 39.03.11, ITD states that "there is no fiscal impact to the Department" when it comes to such shipments, and modest potential costs to industry (such as ambulance services and lighting, which, incidentally, would be a cost no matter where these loads were transported). Were ITD to disclose the full costs of those few megaload shipments that did occur on U.S. 12 – from the onset of applications to ship, through the permitting and oversight process, and the actual shipment – the public would see that there was a fiscal impact to ITD. ITD should reveal those costs to the public.

5. In the new rule, ITD identifies "interim" USFS "criteria" – regarding dimensions, hours of travel, and roadway/vegetation modifications. ITD can not off-handedly assume that "interim" equals "set in stone." These criteria, as interim, can not be used by ITD to "resolve" the megaload matter. For this reason alone, ITD should realize the inappropriateness of its proposed rule and abandon this rule-making process.

**Borg Hendrickson**

Kooskia, ID

From: Borg Hendrickson

Sent: **Tuesday, September 27, 2016 6:33 PM**

To: Ramon Hobdey-Sanchez

Subject: Additional comments re. Rule ADAPA 39.03.11

Please consider the comments below as additions to my earlier-sent comments regarding ITD's proposed Rule ADAPA 39.03.11.

1. The line in the proposed rule that reads "Loads cannot utilize turnouts - which are designated for recreational vehicles for non-emergency parking," is confusing, if not slippery. "Recreational vehicle" typically means RV. Is that what ITD means? Or are bicycles "recreational vehicles," and any other vehicle – my car carrying me and my picnic gear, your truck carrying your kayak, your horse trailer, my van carrying my camera, my raft, etc. – covered within ITD's meaning of "recreational vehicle?" Whichever of these ITD means by "recreational vehicle," right now NO turnouts along the MP75-MP174 route are "designated" with signs as "only for recreational vehicle use." At the same time, ALL turnouts along the MP75-MP174 route ARE used by recreationists, who almost always arrive in a vehicle carrying their recreational gear. So does ITD mean ALL turnouts can not be used by oversize, non-reducible load shipments (except in emergencies)? Or NO turnouts? Or could the line quoted above mean that a stopped shipment will simply remain on the highway, blocking it, and that, therefore, all other traffic will be routed into the turnout? If that's what ITD means, that's what its proposed rule should say. The quoted line regarding non-emergency turnout use is ambiguous, misleading, and perhaps intentionally 'slippery.'

2. ITD indicates megaloads must travel through the National Forest within 12 hours. Not all of the Milepost 74 to 174 U.S.12 route is within the National Forest. So does ITD mean 12 hours



until a shipment meets a section of the highway not within the Forest, where the shipment may stop and then continue the next day, and so on, taking multiple 12-hour periods? And of course, we should recognize, too, that ITD's 12-hour stipulation doesn't deny a shipment (or any number of shipments at once) from traveling through U.S.12 Mileposts 0 to 74 for any number of undetermined hours or days or weeks. In other words, several megaloads could be traveling U.S. 12 from Milepost 0 to 174, all at the same time. The "12 hours" line in the proposed rule is ill-defined and leaves ITD and megaload shippers oodles of leeway. Their taking advantage of that leeway would become hugely exacerbating to locals and tourists driving any segment of U.S.12.

Borg Hendrickson  
Kooskia, ID

From: Borg Hendrickson  
Sent: **Tuesday, September 27, 2016 9:10 PM**  
To: Ramon Hobdey-Sanchez  
Subject: More additional comments

Please consider the questions and comments below as additions to those comments I sent to ITD in two previous emails.

In the FAQs for Rule ADAPA 39.03.11, ITD states that the rule will "require ITD to monitor the vehicles and loads as they travel the highway..." My question is: who will not only monitor but *enforce* the requirements provided for in the new rule? Citizens assume ITD will, but...

During the 2010-2013 shipments, according to citizen monitors, ITD ignored the state's 10-minute-delay rule for megaload shipments, and also ignored that rule's replacement, a 15-minute-delay rule. Citizens themselves clocked multiple longer delays. Delays ranged up to as much as 124 minutes, a delay witnessed by approximately 75 citizens in the U.S.12 Fish Creek area. Where was ITD? Why was it not monitoring and enforcing its own delay rules during all megaload shipments? What steps will ITD take under the proposed new rule to enforce the 15-minute-delay rule? Those steps must be detailed in Rule ADAPA 39.03.11. Otherwise, the driving public, experienced now with megaload shipments, has no assurance that delays of future megaloads (if there are any) would be limited to 15-minute delays.

In light of the above comment and question, what steps will ITD take under the new rule to enforce its "12 hours to travel through the National Forest on U.S. Highway 12" stipulation, or its no non-emergency use of turnouts stipulation? Previous megaloads traveled not just multiple hours, but multiple days along U.S.12, and they did use turnouts for non-emergency stopping. Those steps ITD will take to monitor and enforce these two stipulations must be detailed in the new rule. Otherwise, the driving public has no assurance that megaload shipments would adhere to these stipulations.

In its new rule, as in previous rules, ITD refers to "oversize, non-reducible" as the loads addressed in the rule. Previous loads, such as the ExxonMobil/Imperial Oil (EM/IO) modules

that sat at the Port of Lewiston for weeks, had been declared by EM/IO as "non-reducible." ITD did not, at least publicly, question that declaration. Yet when EM/IO was denied travel on U.S.12, the corporation reduced the size of each module and shipped them via another route. What steps will ITD take in the future to inspect and reliably confirm that any "oversize, non-reducible" load is actually non-reducible? In the past, ITD clearly failed at such confirmation, and thereby failed Idaho's citizens, who learned to not trust ITD. Those steps ITD would take to inspect and reliably confirm each permit applicant's load is indeed non-reducible should be detailed in Rule ADAPA 39.03.11. Otherwise, the driving public has no assurance that the owner of the loads, nor ITD, is telling the truth when it comes to "non-reducible."

Rule ADAPA 39.03.11 states no requirements with respect to a megaload shipper's preparation for an accident, such as a load's falling into the river. Idaho taxpayers surely should not pay for a load's retrieval, nor related road repairs, nor the procurement of equipment to either dismantle or retrieve a load. When ExxonMobil/Imperial Oil spokespeople presented EM/IO's plan for such an accident – within earshot of ITD staff and the public – EM/IO staff lied. They said they would get a crane from Spokane (no such crane existed in Spokane). They said the crane would get to U.S.12 within a matter of hours (it would actually come from Seattle and take a matter of days). Regardless, such a crane would require the building of a thick concrete pad of about 45' x 45', which would take days-to-weeks to build. There were other EM/IO lies that ITD stood by without refuting those lies. So back to the new rule: What steps will ITD take to ferret out megaload shippers' lies so that ITD can deny a permit when lies are uncovered. Those steps must be detailed in the new rule. Otherwise, the driving and taxpaying public has no assurance that that they will not in the case of future megaload permit applicants be lied to. Further, in Rule ADAPA 39.03.11, ITD must include a requirement that permit applicants must outline specifically their preparations for any accident and their budget for responding to any accident. No taxpayer monies should be required.

Borg Hendrickson  
Kooskia, ID

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Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise, ID 83707-1129  
Phone: (208) 334-8810  
ramon.hobdey-sanchez@itd.idaho.gov

28 September 2016

Mr. Hobdey-Sánchez,

I am responding to the Idaho Transportation Department's (ITD) proposed rule entitled "Rules governing overlegal permittee responsibility and travel restrictions" identified under Docket No. 39.03.11-1601.

It's obvious what ITD is trying to do here with this administrative maneuver. Consultation and mediation, mandated by the federal courts, isn't moving fast enough for the department. According to public records, permit applications are piling up for loads that do not fit the values of the Highway 12 corridor, including one from Nickel Brothers from October 2015.

Former Nez Perce and Clearwater National Forest Supervisor Rick Brazell only **suggested** the trigger criteria for further accommodations for megaloads including loads exceeding sixteen feet wide, and/or one hundred and fifty feet in length, load movement requiring longer than twelve hours to travel through the designated mileposts, and load movement requiring physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

It is still up to the Ninth Circuit Court of Appeals, the United States Forest Service, the Nez Perce Tribe, and Idaho Rivers United to complete consultation and mediation, respectively, regardless if it doesn't fit ITD or the State of Idaho's timeline. You decided to wait 3 years to let this issue cool off. Now, you are swooping in to appease large corporations who have no vested interest in adhering to Wild and Scenic River corridor values. There is a reason overpasses do not exist over Highway 12, and it not to facilitate megaloads going up the road. It's remote, wild country.

In 2013, I stood next to the Fish Creek Bridge on Highway 12 watching the Omega Morgan truck driver spend over an hour creeping across the bridge, trying to avoid hitting cement guardrails. He was quite literally white-knuckling it the whole time. The Idaho State Police stood by, but could they really have accomplished anything in an emergency? If an emergency transpired it wouldn't have mattered how many ambulances or patrol cars were on duty because that load couldn't go anywhere except forward. Some unsuspecting Washington state residents were stuck behind

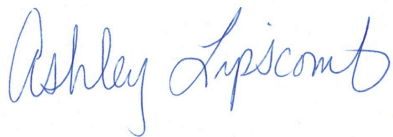
the load. I wonder if they will ever decided to travel up HWY 12 again after that episode.

In conjunction with my personal comments and experiences above, I want to echo the following messages:

- The “interim rules” put forth by the Forest Service are not necessarily going to be the permanent guidelines that govern how the agency makes decisions regarding non-reducible oversized shipments looking to travel the Wild and Scenic River corridor.
- While the state of Idaho has the authority to conduct rule making for matters under its jurisdiction, this is not one of them. In other words, if Idaho chooses to adopt this rule following public involvement, it does not take precedence over the results from the on-going government-to-government consultation, and the on-going discussions with plaintiffs Idaho Rivers United. The state of Idaho is wasting taxpayer dollars by drafting and possibly creating a rule for a situation over which it has no jurisdiction.
- The current rule making process being conducted by the state of Idaho and the Idaho Transportation Department lacks genuine transparency and public involvement. The state has already proposed the rule; Idaho could have engaged the public before the rule-making proposal if it was truly interested in public dialogue and concern.
- The public does not support the permitting of non-reducible oversized (megaloads) on Highway 12 or within the Wild and Scenic River Corridor. This is rehashing what has already been decided.

Our wild places are not for sale to over-sized haulers and large corporations trying to move megaloads through treaty territory and remote country.

The people have spoken,



Ashley Lipscomb  
1196 Danielson Road  
Genesee, Idaho 83832



1626 6th Avenue N. • Lewiston, ID 83501  
(208) 743-5531 • Fax (208) 743-4243  
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(208) 743-3209 • 1-877-777-8099

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September 28, 2016

Idaho Transportation Department  
ATTN: Ramon Hobdey-Sanchez  
P.O. Box 7129  
Boise, ID 83707

RE: Rules Governing Overlegal Permittee Responsibility and Travel Restrictions on US-12

Dear Mr. Sanchez:

The Port of Lewiston appreciates the opportunity to provide comments on the proposed rulemaking for IDAPA 39.03.11. The administrative rule change will benefit the public by aligning the Idaho Transportation Department (ITD) overlegal permit requirements with criteria set forth by the U.S. Forest Service (USFS).

In the fall of 2013, Judge Winmill issued an injunction that ordered the USFS to close Highway 12 to oversized shipments. Under the Court's order, the definition of an overlegal limit shipment is expansive, including essentially all loads over 16-feet in width. This would include such common cargo shipments as modular homes, grain storage bins, boats and heavy construction equipment.

Even though the USFS still does not believe that it has permitting jurisdiction over a U.S. Highway, it has complied with Judge Winmill's order and has not pursued an appeal to the 9<sup>th</sup> Circuit Court. The option for appeal has now sat for three years while the parties mediate, however there has been no apparent progress or resolution to the issue. Unfortunately, with Highway 12 closed to oversized shipments, the plaintiffs have little motivation to seek a settlement. The Port of Lewiston respects the sovereignty of the Nez Perce Tribe and the concerns the Tribe has raised about oversized shipments. The Port believes it is time to move forward to resolve the issue in a manner that addresses the Tribe's concerns and allows commercial use.

The inability to ship oversized shipments on U.S. Highway 12 has had a negative impact on the Port of Lewiston and the economy of north central Idaho. The Port is unable to contract with any shippers and manufactures who wish to offload cargo over 16-feet in width for transport on

Highway 12. As the most inland seaport on the west coast, there are opportunities to create jobs by providing value-added services to shipments (i.e. welding, electrical and mechanical services). However, due to the probation of shipments on Highway 12, these jobs are never given an opportunity to materialize.

In many cases, shippers transporting oversized cargo into the interior of the U.S. must bypass the West Coast altogether and use southern U.S. ports and truck equipment across the country. This adds thousands of nautical and land miles to shipments versus utilizing the Columbia/Snake River System and Highway 12.

We believe that the additional safety requirements proposed in the rulemaking provides the traveling public with the necessary assurances to again transport oversized shipments on U.S. Highway 12. We urge the Idaho Transportation Board to adopt the proposed rulemaking for IDAPA 39.03.11.

Sincerely,  
PORT OF LEWISTON



Mike Thomason  
President

Gary Dorr  
Box 103  
Craigmont, ID 83523  
[gfdorr@gmail.com](mailto:gfdorr@gmail.com)

Ramón S. Hobdey-Sánchez	PO Box 7129
Governmental Affairs Program Specialist	3311 W. State Street
Idaho Transportation Department	Boise ID 83707-1129
<a href="mailto:ramon.hobdey-sanchez@itd.idaho.gov">ramon.hobdey-sanchez@itd.idaho.gov</a>	Phone: (208) 334-8810

**RE:PUBLIC COMMENT OF GARY DORR TO IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT  
39.03.11 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS DOCKET NO. 39-0311-  
1601 NOTICE OF RULEMAKING - PROPOSED RULE**

1. Article 9. of your proposed rule change says "Delaying Movement. Enforcement personnel responsible for any section of highway MAY delay movements and carry out enforcement action for violations involving overlegal permit operations." Idaho needs to change that to "SHALL delay movement and carry out enforcement action for violations...."
2. This proposed "state rule" will adopt that the overloads be changed or accepted to apply to load widths greater than 16 feet. So how wide is each lane on HWY 12 between Kooskia and Lolo Pass? I believe they are what 10 feet? Maybe 12 in places? So a load 15'11" would be ok to take up without consideration under the Megaloads rule? This would mean that if the lane widths are 10 feet in places that an illegal Megaload that is 5'11" can still pass without consideration under this proposed rule and this is not taking into consideration of any of the public's needs as far as safety is concerned. This needs to change to anything wider than the lane width should fall under this proposed rule change. On Interstate roads in your own regulation, you specify no loads shall be wider than 10 feet. Yet on a narrow winding road like the Lochsa River corridor, you propose to allow any load up to 16 feet? That defies all reason. My comment then is that the same rules should apply to other similarly sized roadways that traverse the Lochsa River Corridor with regard to vehicle width. There are other interstate roads that can be taken that a 16 foot wide load will not affect like it will affect traffic on the Lochsa river corridor.
3. There is no weight limit in these considerations and that needs to change to reflect the tremendous weight loads that are proposed to traverse the scenic Lochsa River Corridor. If a wreck happens, how will a tremendously heavy load be lifted from our traditional waterway which is under 1855 Treaty Provision Protection? There needs to be a weight load limit that triggers consideration. This rule making body cannot just allow things to happen and not take action to protect the public.
4. The Fiscal Impact is proposed to be "N/A." This is in direct conflict with the impact from delayed travel, use of roads by overweight vehicles, cost of modification of vegetation or roadways for overloads. Furthermore, why is the state modifying the roads as we speak? Is this an underhanded attempt to bypass the already slanted process so that the Megaloads don't have to modify the vegetation? There have been no significant complaints from the public as of this time



with regard to the roadway and safety barriers yet? So how is it that all of a sudden when you propose to pass this new "state rule" that you begin to modify the road? I want the public to see any emails that exist between Omega Morgan transportation and this agency and the ITD with regard to possibly accommodating them before the public comment by widening the road structure already in place. My comment is that you release those emails and put fiscal impacts from all possible scenarios into this "rule"

5. Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because affected interests are not likely to reach consensus. I demand that ITD explain that more. "If the agency determines that negotiated rulemaking is not feasible, it shall explain why negotiated rulemaking is not feasible in a notice of proposed rulemaking published pursuant to section 67-5221," My comment is, where is that explanation to the public? WHY is it not feasible, in that this proposed STATE RULE cannot be negotiated? My comment or question is, is it because this subordinate STATE RULE will violate the stipulations of the Federal Duty to have meaningful consultation with the Tribe under the 1855 provisions, and the Executive Order on Consultation with Indian Tribes (EO 13175). Basically the State cannot consult with the Tribes because they are subordinate to the Federal Government-to-Government relationship between the US and Nez Perce Tribal Governments. Additionally the State of Idaho cannot comply with Executive Order 13175 because they are subordinate to the Federal Govt. So there are superior laws in effect within the boundaries of the State of Idaho to which Idaho does not have standing to enforce and thus cannot comply with. That makes this ruling basically useless in that they cannot perform the duties of the Federal Government.
6. It also says in the bulletin: "04. Nez Perce - Clearwater Forest Safety and Travel Requirements. As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce – Clearwater Forest (US 12 from milepost 74 to 174). ( ) a. The Forest Service has issued the following written criteria to determine which "oversize" loads will be subject to Forest Service review:" IDAHO TRANSP DEPT is attempting to write this into a "rule" but there is no trigger if the Forest Service CHANGES it's written criteria. So if ITD adopts this "as is" and then the Forest Service changes in a month from now, there is nothing written into this rule to comply with any future changes in the Forest Service written criteria.

I ask you take these comments into the record for consideration and I ask for replies before any rule is made regarding all the comments made today. The people are willing participants into their state government's decisions and I feel that they need to receive answers before the rule is adopted. Furthermore, I do feel this rule is moot in that the state cannot assume to be negotiating with the Tribe in compliance with the Federal Government's duty to consult with the Nez Perce Tribe and every other tribe that takes fish or water from the Columbia River system to which this Lochsa River corridor's water flows. We are all stakeholders in this process and thus this falls under a Federal Duty to consult.

Sincerely,

Gary F. Dorr

Heir to the Treaty of 1855 with the Nez Perces





# *Friends of the Clearwater*

PO Box 9241 Moscow, ID 83843

Phone (208) 882-9755

[www.friendsoftheclearwater.org](http://www.friendsoftheclearwater.org)

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September 28, 2016

Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise, ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

Dear Mr. Hobdey-Sanchez,

Thank you for the opportunity to submit written comments concerning the Idaho Transportation Department's proposed rulemaking for Overlegal Permittee Responsibility & Travel Restrictions Docket No. 39-0311-1601. We have numerous concerns over the proposed rulemaking that are listed below.

## **2013 Ruling by Federal Judge Lynn B. Winmill**

Federal Judge Lynn B. Winmill granted an injunction for the plaintiffs Nez Perce Tribe and Idaho Rivers United in 2013, which ordered the Forest Service to issue a Closure Order for Mile Marker 74-174 on US 12 for Omega Morgan megaloads (extremely big over-sized loads). That closure order is still in effect. It makes no sense for the state transportation department to undergo a rule making process while the closure order still stands.

Federal Judge Lynn B. Winmill's ruled that consultation must occur between the Nez Perce Tribe and the federal government. Consultation has yet to be completed. Further, mediation is currently taking place between plaintiffs and the Federal Government concerning the potential future impacts of megaloads traveling in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. Thus, the Idaho Transportation Department, by proposing a rule for Mile Marker 74-174 in the US 12 corridor, is flaunting the federal court order, putting the cart before the horse, and acting in bad faith.

## **Forest Service**

Federal Judge Lynn B. Winmill's ruling also ordered the Forest Service to maintain the Closure Order for Mile Marker 74-174 on US 12 until the agency completes a corridor review. It is not clear that the "values report" issued by the Forest Service (draft November 2013, latest version March 2015) satisfies Judge Winmill's corridor review order. It is also not clear whether the Forest Service intends the "values report" to be the full and complete corridor review.

The Forest Service developed "interim criteria" in 2013 that would govern whether over-sized shipments would require agency approval to travel through the corridor. The "interim criteria" for oversized loads are:

- Exceeding 16 feet in width or 150 feet in length.

- Requiring longer than 12 hours to travel through the Wild and Scenic corridor and national forest.
- Requiring physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

These “interim criteria” are not necessarily going to be the permanent guidelines that govern how the agency makes future decisions regarding megaloads traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. The State of Idaho is undergoing a rule making process, and putting forth guidelines that have, yet, to be ultimately decided by the US Government.

In sum, the Forest Service has the authority and duty to regulate megaloads traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. The proposal by ITD is presumptuous.

### **Public Involvement**

The current rule making process being conducted by the state of Idaho lacks genuine transparency and public involvement. The state has already proposed the rule; Idaho could have engaged the public before the rule-making proposal, like it has in many past instances, if it was truly interested in public dialogue and concern.

The public clearly does not support megaloads traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. This is rehashing what was expressed and decided years ago.

### **Public safety**

The state of Idaho is not demonstrating its commitment to “public safety” and “public convenience” by proposing an administrative rule, which would allow megaloads to travel in a two-lane narrow, winding corridor and block traffic and cause delays. The state of Idaho is not demonstrating its commitment to “public safety” and “public convenience” by proposing an administrative rule that shall require an ambulance to accompany megaloads while traveling in a two-lane narrow and winding corridor. The mere requirement of an ambulance suggests that megaloads traveling on US 12 and in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor will deny the public safe, convenient and normal access to emergency services.

### **Financial Burden**

The state of Idaho is wasting taxpayer dollars by proposing an administrative rule that the public opposes. The potential future permitting of megaloads to travel on Highway 12 and through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridors does, indeed, fiscally impact the Idaho Transportation Department. Permit fees do not recover the expenses incurred by the state when analyzing and issuing such permits. The fiscal impact on the state of Idaho for permitting megaloads to travel on highways in the state goes beyond the costs incurred during the permitting process. It is documented that very heavy loads cause considerable damage, immediately and over the long-term, to highways, roads and bridges.


Also, the potential future permitting of megaloads to travel on Highway 12 and through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridors could fiscally affect tourism and other business uses of the Highway 12. The delays alone could prevent efficient transport of certain goods.

### **Summary**

The Idaho Transportation Department is considering a poorly written rule change that would not change anything. Any rule potentially adopted by the state does not take precedence over the recent federal court order, the government-government consultation currently taking place, and the mediation that is on going. Further, it cannot bypass the duty and authority of the Forest Service to regulate megaloads attempting to travel in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor.

- The claim that the goal of the proposed administrative rule “is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12” is dishonest and disingenuous at best. The proposed administrative rule, rather, shuns public sentiment and the clear overwhelming public opposition to megaloads traveling on U.S. Highway 12.

Sincerely,



Brett Haverstick  
Education & Outreach Director

# Environmental Defense Institute

Box 220 Troy, ID 83871-0220 208-835-5407

[edinst@tds.net](mailto:edinst@tds.net) [www.environmental-defense-institute.org](http://www.environmental-defense-institute.org)

Dear Sir/Madam  
Idaho Transportation Department  
P. O. Box 7129  
Boise, ID 83701-1129

**RE: Omega Morgan mega-loads on U.S. highway 12 in the Middle Fork Clearwater and Lachsa Scenic River Corridor.**

EDI is opposed to ITD and the US Forest Service turning this historic scenic area into a commercial corridor. Below are our reasons for opposing this ruling.

- The "interim rules" put forth by the Forest Service are not necessarily going to be the permanent guidelines that govern how the agency makes decisions regarding non-reducible oversized shipments looking to travel the Wild and Scenic River corridor.
- While the state of Idaho has the authority to conduct rule making for matters under its jurisdiction, this is not one of them. In other words, if Idaho chooses to adopt this rule following public involvement, it does not take precedence over the results from the on-going government-to-government consultation, and the on-going discussions with plaintiffs Idaho Rivers United. The state of Idaho is wasting taxpayer dollars by drafting and possibly creating a rule for a situation over which it has no jurisdiction.
- The current rule making process being conducted by the state of Idaho and the Idaho Transportation Department lacks genuine transparency and public involvement. The state has already proposed the rule; Idaho could have engaged the public before the rule-making proposal if it was truly interested in public dialogue and concern.
- The public does not support the permitting of non-reducible oversized (megaloads) on Highway 12 or within the Wild and Scenic River Corridor. This is rehashing what has already been decided.

Please enter these comments into the public record.

Regards



Chuck Broschius  
President  
Environmental Defense Institute

cc via email

[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

[elliottm@nezperce.org](mailto:elliottm@nezperce.org)

[gary@friendsoftheclearwater.org](mailto:gary@friendsoftheclearwater.org)

[kevin@idahorivers.org](mailto:kevin@idahorivers.org)

**COMMENT FORM**  
**Idaho Transportation Department**  
**U.S. 12 Administrative Rulemaking**

**Wednesday, September 28, 2016**  
**4pm-7pm (MDT)**

YOU MAY LEAVE YOUR COMMENTS — OR MAIL, EMAIL, CALL:

**ITD—Rule Comments**

**Attn: Ramón Hobdey-Sánchez**

**P.O. Box 7129 ♦ Boise ♦ ID ♦ 83707-1129**

**Email:**

**ramon.hobdey-sanchez@itd.idaho.gov**

**Ph. (208) 334-8810**

**Please submit your comments on ITD's administrative rulemaking by  
midnight October 14, 2016. Thanks!**

**OCTOBER 10, 2016 - - via Email**

**Comments of Hwy 12 residents Owen and Mary Ann Fiore, Hwy 12 Kooskia, Idaho Tel. 208-xxx-xxxx - We are long-time residents of Syringa, ID (Hwy 12, MP 90), the Fiore Family having owned property in Syringa, ID, for over 29 years. This is our full-time residence, consisting of about 10 acres, with home fronting Hwy 12, a barn and storage facility, outbuildings.**

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**We are among the thousands of Idahoans strongly opposed to the so-called “megaloads” which in 2010-2013 sought to expand to a ridiculous and harmful level the permitting of oversize, overlegal loads. The FAQ questions and ITD “responses” misstate the current litigation status, understate the opposition to “megaloads”, and essentially seeks to assist the Port of Lewiston in saving its failed port facility (even when there is mounting economic and political pressure to breach the lower four Snake River dams, which if done would eliminate the “port” altogether).**

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**At least it is good to know that ITD accepts the “joint jurisdiction” of the USFS and ITD over commercial transport of goods along Hwy 12, specifically MPs 74-174 (we are at MP 90). The Lochsa-Clearwater portion of Hwy 12, MPs 74-174, is designated one of but a few “All-American Roads” and is protected under the Federal Wild & Scenic Rivers Act. The ongoing pressure being put on ITD by proponents of megaloads, specifically seeking to turn Hwy 12 into a “high & wide” transportation corridor, should be resisted – in fact, any proposed rule-making, given the ongoing Federal court litigation and the court’s injunction against USFS, is premature, disruptive of the Federal mediation process, and an unnecessary waste of money by ITD. For example, we all know that megaloads were supposed to only high and wide loads that were “non-reducible”; yet the evidence shows that several years ago, the proposed Exxon loads did not need to be 30 feet high (Exxon reduced the loads’ height in half in the Port of Lewiston once it knew such loads could not go over Hwy 12).**

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**Federal District Court Judge B. Lynn Winmill issued a mandatory injunction against USFS requiring the Forest Service to withhold any permitting of megaload transport while the litigation is in process. Mediation between the plaintiffs, IRU and the Nezperce Tribe, and the USFS has been ongoing for a couple of years and another mediation meeting is scheduled later this month. There is no evidence, given the confidentiality of the mediation process, that the parties cannot reach a settlement. The 25t**

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megaloads guidelines put out by the USFS have no legal effect, given the litigation, and the proposed ITD rule-making is just a waste of time and taxpayers' money.

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ITD is fully aware of the broad and strong opposition of thousands of Idaho citizens/taxpayers to any megaload transport over the critical section of Hwy 12, namely, MP 74-174. This highway, while always available to reasonable size and weight commercial transport, has a special status under Federal law, supports significant tourism use, evidences substantial use by protected wildlife. The proposed rule-making was not accompanied by complete disclosure of the reasons therefore or by supporting data and information allowing for proper evaluation of the rule changes by Idahoans.

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It is clear that much more will come out and be decided as the Federal litigation is pursued by the parties. Idaho is a State, but also is subject to Federal law, which we believe has been, and is proposed again to be violated by proposed megaloads transport.

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In summary, ITD's proposed rule change actually changes nothing with respect to the opening of Hwy 12 to megaload transport – Hwy 12 is and will remain closed to such permitting and traffic until full litigation or earlier settlement of the present case before the Idaho Federal U.S. District Court. The proposed rule making fails to in any significant way address and resolve the concerns not only of the plaintiffs (IRU and the Nezperce Tribe), but also the concerns of thousands of Idaho citizens, including the Fiore's residing at MP 90, Hwy 12. ITD, apparently at the behest of the Port of Lewiston and certain politicians, seeks to insert itself into a controversy that is outside its jurisdiction, or at best, should only be the subject of IDT becoming a part litigant. And, finally, there are many public safety and convenience, tourism revenue loss, and citizen complaint issues that along the line will and should be addressed. In this situation, the proposed rule making is quite premature, as well as being ineffective and useless in terms of commercial transport!

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These comments are being emailed to ITD and it is requested they be placed in the record of this matter. Even though the public hearing already has taken place, the comment period was extended to October 14, 2016. Therefore, we can assume these comments and all others timely submitted, will be considered by ITD and its Board.

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Respectfully submitted,  
Owen and Mary Ann Fiore

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**Optional Information:**

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Name: Owen and Mary Ann Fiore

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Hwy 12, Kooskia, ID

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**X** Please contact me by X phone and X email to discuss my comments.

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October 10, 2016

Idaho Department of Transportation  
3311 W. State St.  
P.O. Box 7129  
Boise ID 83707-1129

RE: Proposed ITD US 12 Rulemaking (IDAPA 39.03.11)

Kootenai Environmental Alliance (KEA) is the oldest non-profit conservation organization in Idaho. It is our mission to conserve, protect and restore the environment with particular emphasis on the Coeur d'Alene Basin and the Idaho Panhandle. Our members live, work and play in the Inland Northwest and have an active interest in the Lochsa-Clearwater Wild and Scenic River.

The Lochsa-Clearwater U.S. 12 Wild & Scenic River corridor is part of the National Wild and Scenic Rivers (WSR) System that was created by Congress in 1968 (Public Law 90-542; 16 U.S.C. 1271 et seq.) to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. The proposed Rule (IDAPA 39.03.11) is not in line with the intent of the WSR Act and the safeguards it provides to protect the special character of the Lochsa-Clearwater River.

The Proposed Rule notes that "recent federal litigation raised new considerations for certain oversize vehicles and non-reducible loads traveling through the Nez Perce National Forest (NPNF) on U.S. 12." This litigation is still in process. Plaintiffs and defendants in the "megaload" legal case are currently engaged in mediation regarding oversize non-reducible shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. That mediation has not yet reached resolution, yielding the proposed IDAPA 39.03.11 rule-making process premature.

Per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court. Therefore, the Idaho Department of Transportation (ITD) currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174.

KEA, on behalf of our membership, oppose all permitting of oversize, non-reducible megaload shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor as it is in violation of the protections afforded to that special area by the WSR. We urge you to abandon this rule-making process and wait for the mediation outcomes to guide future use and development in that corridor.

Thank you for your consideration of our comments in regard to this proposed rule.

Looking Forward,

Adrienne Cronebaugh  
Executive Director

From: Linwood Laughy  
Sent: **Tuesday, October 11, 2016 3:05 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Comments on 39.03.11 Rule-Making

Comments on 39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE  
RESPONSIBILITY AND TRAVEL RESTRICTIONS ON US-12

Like many other Idahoans, I have wondered why the Idaho Department of Transportation decided to move quickly toward rule-making regarding the transport of oversize loads (megaloads) on U.S. 12. Presumably this action is being taken at the urging of the Port of Lewiston, or perhaps the Governor's office on the Port's behalf. An empty \$2.8 million taxpayer-funded container dock extension and four years of unsuccessful marketing for any inbound traffic (all the wind turbine blades and drill pipe and other promised products that have never arrived) perhaps led to the Port's request. The headline of the POL's Highway 12 promotional piece sent to ITD and probably numerous other government players reads: "ROUTE IN IDAHO CLOSED INDEFINITELY TO OVERSIZED CARGO." As ITD well knows, oversized cargo travels on Highway 12 nearly every day, including on the route from Milepost 74 to 174.

A second curiosity: ITD has long claimed it has the authority to issue oversize load permits on U.S. 12, including those that exceed 16 feet in width. The department has current rules that address such loads. ITD even modified those rules, for example, to eliminate the maximum 10-minute delay requirement in support of megaload traffic. It now appears, however, that ITD plans to adopt new rules that change nothing

The ITD has repeatedly stated the agency's highest priorities are public safety and public convenience. I have personally witnessed Highway 12 closed due to megaload traffic for 39 minutes, 55 minutes, 84 minutes, with many other examples possible; have observed 8 empty logging trucks held up at the edge of Kamiah for from 32-45 minutes, have heard a transport company claim under oath as "very successful" a shipment on Highway 12 that required over 16 days, blocked river access at one location for 11 days, caused the highway to be closed for periods exceeding 50 minutes; knocked out electrical power to 1300 homes and businesses. So much for public safety and convenience.

Here's an analysis of the proposed changes to 39.03.11 Rules Governing Overlegal Permittee Responsibility and Travel Restrictions

200.04

While the ITD appears to recognize at .04 that the USFS can regulate oversize loads traveling through the Nez Perce Clearwater Forest (US 12 from milepost 74-174), at 04.a the agency indicates the Forest's role as that of *review*, a significantly different role than *regulate*.

Do note that not all of Milepost 74-174 is within the Nez Perce Clearwater National Forest.



200.04 a The criteria “exceeds sixteen (16) feet wide and/or one hundred and fifty (150) feet in length, requires more than 12 hours to travel through the designated mileposts; or load movement requires physical modification of the roadway” refers to *interim* criteria the USFS indicated they could potentially use until this matter was resolved on the federal level. While ITD can of course adopt any criteria it wishes, it is inaccurate to present the proposed criteria as representing the USFS official and final position.

200.04 b. i. The requirement of ambulances (plural) provides clear recognition that these shipments pose a public safety hazard and thus seriously questions ITD’s commitment to public safety.

200-.04 b. ii This statement is sufficiently vague to be rendered meaningless.

200.04 b. iii Here is found another statement of weasel words. “Loads cannot utilize turnouts,” but the turnouts referred to are those ITD decides to designate for recreational vehicles. In reality, recreationists use virtually all turnouts along the Lochsa River. A work-around used in the past is to have the megaload stop on the highway and have traffic pull onto the turnouts, which could then lead to the claim that the oversize load had not utilized the turnout.

200.04 iv The best interests of the public are never served by giant oversize loads lumbering down Highway 12.

200.04 vi. ITD’s monitoring of loads in the past has proven to be a joke. Violations of permit requirements occurred frequently and were documented, on all megaload runs monitored by the public, which was almost all of them. Violations ranged from greatly exceeding 15-minute traffic delays (the last run involved holding up over 50 cars and trucks with no passing allowed for 26 miles over approximately two hours) to repeatedly traveling well off center on Fish Creek bridge as required in the permit. ITD may monitor shipments, but the agency does not enforce permit requirements.

200.04 vi This rule would restrict megaloads within the Wild and Scenic River Corridor to 1 load at any one time. Thus the number of megaloads from Lewiston to Lolo Pass would be unrestricted and it would be possible to have 2 loads travel the WSR corridor in any one 24-hour day.

### **ITD’s Frequently Asked Questions document deserves additional comment.**

If the goal of this rule-making as stated is “to address the concerns previously expressed by the federal litigants” the rule-making fails miserably. For example, do you think permitting up to 365 megaloads a year (or potentially even more) would address the concerns of the federal litigants? Of the members of the many organizations across the United States who oppose megaloads within the Clearwater and Lochsa Wild and Scenic River Corridor? Of Clearwater Valley residents who rely on Highway 12 as their only route to emergency medical care? Of the Nimiipuu people?

While ITD has issued permits for large and/or heavy loads on US-12 for decades— and continues to do so every week—none of these loads prior to 2012 begin to approach the size of megaloads.

While the claim in item (7) that this rule-making itself has no fiscal impact on ITD may be true, any actual permitting of megaloads does fiscally impact the department. I recall that the *Lewiston Morning Tribune* reported in 2011 ITD spent in excess of \$90,000 on the megaload issue. The real battles occurred in 2012 and 2013. Permit fees do not begin to recover even normal permitting expenses, and ITD would likely suffer considerable expense beyond fees were it to begin issuing permits for megaloads in the WSR corridor. The expense of the rule-making itself is a waste of taxpayer money.

On a related note, the Washington State Department of Transportation has documented considerable damage to roads and bridges caused by heavy loads, research provided to ITD but which the department appears to ignore. Thus the fiscal impact on ITD of permitting megaloads on Idaho highways goes well beyond what is directly documented.

In summary: ITD is considering a poorly written rule change that changes nothing. Megaload shipments would still require USFS approval, though ITD says maybe only review; Highway 12 through the Nez Perce Clearwater National Forest would potentially be open to virtually unlimited megaload permitting as already favored by ITD; the state would continue to be at odds with federal litigants including the Nez Perce Tribe.

The rule-changing efforts does indicate ITD's willingness to put public safety at risk, cause considerable inconvenience to the public and normal commercial traffic on Highway 12, create social and political unrest, insert itself into a dispute in which it has no legal jurisdiction, and waste taxpayer money.

I include by reference as part of my comments information I prepared titled ITD Frequently Asked Questions, A Citizen Perspective, as attached.

Linwood Laughy

Kooskia, Idaho

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### **39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS ON US-12**

#### **FREQUENTLY ASKED QUESTIONS: A CITIZEN PERSPECTIVE**

The Idaho Transportation Department, along with Idaho's Governor, the Port of Lewiston, and the Idaho State Legislature have for several years supported converting U.S. Highway 12 through the Lochsa and Clearwater Wild and Scenic River Corridor into an industrial truck route for oversize, overlegal loads. The governor in 2009 welcomed Big Oil to the state, ITD changed its rules to accommodate such shipments, and state legislators made it more difficult for Idaho

citizens to seek legal remedies regarding megaloads in state court. ITD now intends to once more change its rules with the stated purpose of “allowing oversize, non-reducible loads to once again travel on U.S. Highway 12.”

The state agency has published a set of FREQUENTLY ASKED QUESTIONS in pursuit of this end. You can find a copy of the ITD version of FAQ at <http://itd.idaho.gov/rulemaking/Chpt%20%2011%20FAQ.pdf>. Here is an alternative perspective.

## **FREQUENTLY ASKED QUESTIONS**

### **1) Why is ITD proposing this administrative rules change?**

In 2013 the Port of Lewiston (POL) spent \$2.8 million in taxpayer money to extend its container dock even though container traffic had declined by 70% over the previous fifteen years and showed no signs of a turnaround. The reason for the expensive extension was the port’s hope it could attract cargo for the Alberta tar sands and Bakken oil fields, especially megaloads. Today container shipping on the lower Snake River has ceased with limited prospects it will ever return. POL has been unsuccessful in attracting any incoming oil-related freight, and a federal court injunction has stopped megaload traffic through the Wild and Scenic River Corridor on Highway 12.

In fiscal years 2013, 2014 and 2015 the Port of Lewiston’s annual audits show a combined loss of slightly over \$1 million. While port officials argue that some of this loss is due to depreciation, these losses occurred despite the fact the port receives around \$450,000 each year from Nez Perce Country property tax payers, over \$100,000 in Idaho sales tax rebates, and large amounts in rents from its various tax-payer provided warehouses and other properties.

The Port of Lewiston no longer ships any freight on the river. The only commodity transported from Idaho by barge is bulk grain, which is handled by a private corporation from its own property over its own docks. In the past year the Port launched a major push to open Highway 12 to megaloads, which could possibly justify its white elephant dock and return the port to a positive revenue position. The headline of the port’s principal information document designed to accomplish this reads “ROUTE IN IDAHO CLOSED INDEFINITELY TO OVERSIZED CARGO,” which is false since oversize cargo is regularly shipped on Highway 12, including from Lewiston to Montana, as shown in ITD records and as any citizen who drives the highway can testify. The final statement in the port’s megaload push tells the real tale: “With the help of a federal grant the Port of Lewiston extended its dock to 275 linear feet in 2012. The Port of Lewiston was poised for growth when the federal court injunction prohibited imports from traveling on Highway 12.” The port document lists as next steps contacting state and federal representatives, Governor Otter, and urging various stakeholders to contact federal and state policymakers. Those steps are now unfolding.

### **Comments on ITD’s response to FAQ #1.**

The criteria ITD proposes adopting in its rule change were called “interim criteria” by the USFS and viewed as a possible means of screening out loads that would need special review by the federal agency. The USFS has not adopted any final criteria or even decided whether or not to allow any megaload traffic in the WSR corridor. To suggest otherwise is misleading.

If ITD’s goal, as stated, “is to address the concerns previously expressed by the federal litigants,” the draft rule change fails to do so. Establishing a process by which megaloads could be permitted for travel in the Wild and Scenic River corridor on over 300 days a year while also claiming to be meeting the concerns of the federal litigants is ludicrous.

## **2) What would the proposed rules change specifically do?**

The adoption of this rule change specifically, officially, would do nothing and is a waste of taxpayer money as well as agency and citizen time. The rules change would not remove the injunction, would not change the federal judge’s requirement that the USFS comply with federal law as expressed in the Wild and Scenic River Act, would not address the concerns of the Nez Perce Tribe or other litigants, would not lead to improved relations between ITD and many of Idaho’s citizens. The rule change would not alter the ability of ITD to place various restrictions on megaload shipments before issuing a permit, such as nighttime travel, the inclusion of an ambulance in the transport convoy, the prohibition of travel during holidays etc. ITD placed most of those same restrictions on prior shipments.

ITD also monitored prior megaload shipments. However, they frequently failed to address constant violations of permit requirements. Their purpose, clear to everyone, was to accommodate the shipment of megaloads to the greatest degree possible.

## **3) Would this proposed rules change affect current exemptions?**

The fact that “implements of husbandry” are exempt from ITD’s current rules on oversize loads has no bearing on the issue at hand.

## **4) What is the background that caused the federal litigation?**

The factors that led to federal litigation are extensive. Major public concerns included the number of international and state-owned corporations that were lining up to use the new “high and wide” heavy haul transportation corridor with total number of potential loads over 300; the secrecy with which Idaho’s government had advanced this plan; citizen concerns about public safety and convenience; violations of federal law; predictable damage to north central Idaho’s important tourism industry; the potential for damage to critical habitat for threatened and endangered fish species; the provision of a cheap route between Asian manufacturing and major oil developments in Canada that would result in the shipping of manufacturing jobs out of North America; the failure to protect and enhance the Lewis-Clark National Historic Trail, the Nez

Perce National Historic Trail, a National Scenic Byway and one of only 30 All-American Highways in the nation; the violation of tribal treaty rights, and more.

#### **Comments on ITD's response to FAQ #4.**

ITD had never issued permits for any oversize loads that even approached the size of megaloads prior to 2010, so the opening statement of the agency's response is misleading at best. (The picture used by megaload supporters in defense of this statement contained a single tank approximately 12 feet wide and maybe 50 feet long). Furthermore, when ITD was granted special permission by the USFS to manage Highway 12 in 1995, ITD promised the public there would be no significant changes to then current operations.

The statement "Several groups and residents protested ITD's issuance of permits" fails to acknowledge that the megaload fight was joined by major national organizations with hundreds of thousands of members and the story appeared repeatedly for three years in hundreds of newspapers across the nation, including some of the largest newspapers in the country.

#### **5) Why is this rule not being negotiated?**

ITD claims a goal of its rule-making process is to address the concerns of federal litigants. The usual means of doing so would be to conduct what is called "negotiated rule-making" with all major parties at the table. As in the past, however, such as when ITD changed the rule addressing traffic delay time on the highway, the agency appears to be bullying its way through, creating distrust and discord in the process.

#### **Comments on ITD's response to FAQ #5.**

ITD claims to know what is going on in federal mediation and to know the motivations of federal litigants. What their response to this question best expresses is that perhaps a consensus cannot be reached between the USFS and the Nez Perce Tribe and Idaho Rivers United that ITD would find acceptable.

#### **6) Who would be affected or interested in this proposed rule change?**

The conversion of Highway 12 to a high and wide industrial truck route for giant loads is a matter of national interest as was clearly demonstrated in 2011-2013. Interested parties include national historic trail groups, Scenic Byway organizations, national Wild and Scenic River groups, a national cyclist organization, climate change activists, Native American tribes, commercial fishers in several states, American and Canadian manufacturers serving the gas and oil industry, and more. Members of organizations opposed to the Port of Lewiston's and ITD's plans for Highway 12 number in the hundreds of thousands.

#### **7) If this rule were to pass, what is the fiscal impact to the state?**

ITD claims “There is no fiscal impact to the Department.” This statement is true only because the passage of the rule in question changes nothing as noted above. However, to suggest that the *implementation* of the rule would have no fiscal impact to ITD and the State of Idaho is inaccurate and disingenuous.

In 2011 the net ITD loss related to megaload permits was over \$70,000. However, this only included employee overtime hours and hence not the many hours spent on megaloads during regular working hours. It further did not include any costs for services from the Office of the Attorney General for megaload legal work, which was substantial. In 2012, ITD reported that the oversize load permit program resulted in a \$645,000 annual deficit for the agency. ITD did subsequently raise permit fees. However, the unique costs of permitting megaloads compared to normal oversize loads makes it highly improbable that such permitting captures true costs, and thus megaload traffic would be subsidized by the State of Idaho.

**8) How does this proposed rule change relate to other rule changes currently being proposed by ITD?**

ITD states this rule deals only with nonreducible loads. After claiming for a year their loads could not possibly be reduced in size, Imperial Oil (a subsidiary of ExxonMobil) reduced their giant loads at the Port of Lewiston and transported them on highways other than Highway 12. The corporation then had similar equipment manufactured in smaller pieces that could be transported on interstate highways, and later manufactured such equipment in Edmonton, Alberta, much closer to the point of delivery.

Summary: Likely in response to political pressure applied by the Port of Lewiston, ITD is considering a rule change that changes nothing with respect to opening Highway 12 to megaload traffic, fails completely to address the concerns of federal litigants despite the agency’s stated belief to the contrary, and inserts ITD into a controversy in which it has no jurisdiction. If the new rule were implemented and permits issued, ITD would also violate its primary purpose of public safety and convenience.

ITD is accepting comments regarding the proposed new megaload rule until October 14<sup>th</sup>. Send comments to [ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov).

This alternative perspective was prepared by Linwood Laughy and Borg Hendrickson of FightingGoliath.org.



**Idaho Grain Producers Association**  
821 West State Street  
Boise, Idaho 83702-5832  
**O:** (208) 345-0706  
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[www.idahograin.org](http://www.idahograin.org)

October 12, 2016

Mr. Ramon Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
P.O. Box 7129  
Boise, Idaho 83707-1129

**RE: Support for Proposed Rulemaking IDAPA 39.03.11- Rules Governing Overlegal Permittee Responsibility and Travel Restrictions - U.S./Idaho Hwy 12**

Dear Mr. Hobdey-Sanchez,

As the president of the Idaho Grain Producers Association (IGPA), I appreciate the opportunity to comment on the proposed changes to the rules governing overlegal permittee responsibility and travel restrictions on U.S./Idaho Highway 12. With over 600 wheat and barley farm families as members, IGPA is the key policy advocacy organization working on behalf of Idaho's grain industry with local, state, and federal leaders.

IGPA supports the above-referenced rulemaking which addresses truck permitting for non-reducible, oversized loads traveling between milepost 74 and 174 on north Idaho's U.S./Idaho State Hwy 12. The loads in question fall under the following criteria: 1) exceeds 16 feet wide and/or 150 feet long; 2) load movement requires longer than 12 hours to travel through the designated mileposts; or 3) load movement requires physical modifications of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

These criteria are identical to requirements set for the U.S. Forest Service (USFS) by a March 2013 Federal District Court injunction resulting from an action filed by the Nez Perce Tribe. Because of the ban on oversized loads, all loads over 16 feet wide are prohibited on this route. This includes common oversize cargo such as grain storage bins, farm equipment, modular homes, boats, and construction equipment.

IGPA supports this rule as a way to make progress on the long stalled mediation that was ordered to be undertaken between the Nez Perce Tribe and the U.S. Forest Service. The loss of barge transportation to and from the Port and the inability to move large cargo over this route has negatively impacted the Port

of Lewiston and the economy of north central Idaho – we strongly support making progress on this issue and finding a way to move oversized cargo on U.S./Idaho Highway 12.

Sincerely,

A handwritten signature in cursive script that reads "Terry Kulik".

Terry Kulik  
President  
Idaho Grain Producers Association



From: Hormel, Leontina (lhormel@uidaho.edu)  
Sent: **Thursday, October 13, 2016 11:05 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Public comment re: oversized commercial shipments Hwy 12

Dear Mr. Hobdey-Sanchez,

I am attaching a report on preliminary findings from research I have been conducting with Dr. Chris Norden (LCSC) and members of the Nez Perce Tribe. The report discusses responses from 187 enrolled Nez Perce members, examining their views, experiences, and livelihoods within the Clearwater Basin (the watershed comprising the Clearwater River – Middle Fork, North Fork, and South Fork – the Lochsa River, and the Selway River). You will find within this report that 87% of respondents in this sample answer that oversized industrial shipments (what locals call “megaloads”) are not an appropriate use of US Highway 12. Other results provide context for the experiences among the Nez Perce (or Nimiipuu) that lead to this broadly shared view. You will find a description of the research methodology in the Appendices, as well as our explanation of the shortcomings of other studies examining similar social phenomena in the region.

I will send a printed version of this report to your office, as well.

Yours truly,

Leontina M. Hormel  
Associate Professor of Sociology  
Department of Sociology & Anthropology  
University of Idaho  
875 Perimeter Drive, MS 1110  
Moscow, ID 83844-1110

# Nez Perce Environmental and Cultural Values in the Clearwater Basin<sup>1</sup>

## *Report of Preliminary Findings*

Prepared by:

Leontina M. Hormel  
*Associate Professor*  
*Department of Sociology & Anthropology*  
*University of Idaho*

Chris Norden  
*Professor*  
*Division of Humanities*  
*Lewis-Clark State College*

In consultation with Nimiipuu Protecting the Environment members:

Elliott Moffett  
Julian Matthews  
Diane Mallickan  
Lucinda Simpson  
Chantel Greene  
Richard Broncheau



Photo 1: The Selway River in early fall. *Photo credit: Leontina Hormel*

<sup>1</sup> Research for this report was supported by the following organizations: 2015-2017 Sociological Initiatives Foundation Community Grant (SIF); 2015-2016 University of Idaho Seed Grant; and 2015 College of Letters, Arts, and Social Sciences (CLASS) Summer Research Grant, University of Idaho. The views expressed here do not reflect those of the organizations that funded this research. The survey and interview methods were approved by the Nez Perce Tribal Executive Committee.

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## Executive Summary

The project results described in this report focus on Nez Perce Tribe members' environmental and cultural experiences associated with the Clearwater Basin, which includes the Clearwater Middle Fork, North Fork, South Fork, Selway, and Lochsa Rivers. This area comprises lands and uses secured in the Treaty of 1855 which the Nez Percés have inhabited and used for many generations prior to westward migration and settlement. The survey respondents are enrolled members of the Nez Perce Tribe who have an inherent stake in and responsibility for the protection of the Aboriginal territory laid out in the Treaty of 1855. The US Highway 12 corridor has been used as an access way for the Nimiipuu<sup>2</sup> and other Indian Tribes for years and is part of the history and culture of Indigenous peoples in the Pacific Northwest. We review both data collected via survey questionnaires as well as information gained via in-depth interviews with tribe members for rich descriptions of Nimiipuu livelihoods in the Clearwater Basin. This is an important time to pay attention to Nimiipuu experiences and views as Idaho considers additional commercial development of the tribe's ancestral territories. Past studies conducted examining residents' perspectives of land use in the Clearwater Basin have sampled research participants in ways that do not present a full or coherent picture of Nimiipuu experiences, values, and concerns, an important set of considerations given the Nez Perce Tribe's leading role in resource stewardship and management in the region. The project's intent is to illuminate the distinct relationship Nez Perce have with this region's lands and waters, and to emphasize how the Highway 12 corridor and its component ecosystems constitute an important part of the traditional hunting, fishing and gathering rights of the Nimiipuu. Results from our study provide further context for many tribe members' reluctance to support further commercial development in the region.

Some of the key findings in the report include,

- A large proportion of Nimiipuu report that the environmental health of the rivers in the Clearwater Basin remains at least somewhat healthy.
- About one-third of Nimiipuu respondents, though, think the environmental health of the Middle Fork and North Fork of the Clearwater is not very healthy or not at all healthy.
- When looking at different aspects of environmental health (for example, soil, water, or fish), 44% of Nimiipuu reported concerns about traditional plant populations, citing commercial harvesting, industrial activities, and chemical use among the major activities negatively affecting these plants.
- Another 38.5% of Nimiipuu respondents expressed concern about the preservation of culturally significant areas, reporting vandalism, road access, and construction as ongoing negative impacts.
- Three-quarters of Nimiipuu respondents reported that ancestral history and family traditions in the Clearwater Basin are very important to them and their families.
- Over two-thirds of Nimiipuu respondents reported fishing, hunting, and enjoying nature as very important to them and their families.

<sup>2</sup> Throughout this report we alternate between using Nez Perce Tribe and the tribe's own word for themselves "Nimiipuu".

- The Clearwater Basin is a major contributor to Nimiipuu sustenance and traditions: 64% of Nimiipuu respondents reported that they depend on harvesting food and other resources from the Clearwater Basin.
- A diverse range of game, fish, birds, plants, mushrooms, and moss continue to be harvested by Nimiipuu members in the Clearwater Basin.
- When asked, “Do you think oversized industrial shipments (‘megaloads’) are an appropriate use of the Highway 12 corridor?” an overwhelming number of Nimiipuu respondents – 87% -- answered “No.”
- A majority of respondents reported that oversized industrial shipments would have mostly negative effects on different aspects of life and health in the Clearwater Basin.
- 25% of Nimiipuu respondents said they believed oversized industrial shipments on US Highway 12 could have some positive effect on the regional economy, a majority (38%) still said these shipments would negatively affect the regional economy.

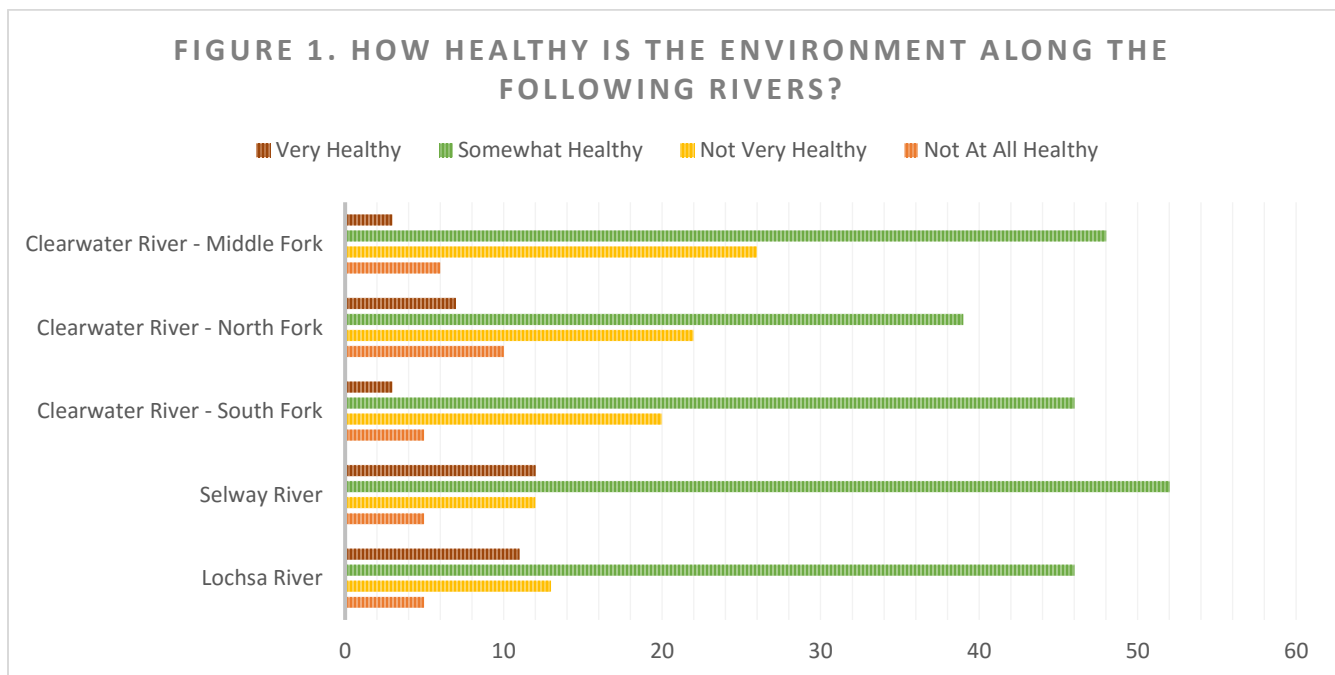
When compared to prior studies focused more broadly on the general population of residents living on or near US Highway 12, the above findings differ significantly. These differences demonstrate the importance of sampling a large enough number of Nimiipuu members so that the range of their perspectives can be examined in survey results and compared to non-tribal residents. This survey’s focus also highlights how important different dimensions of tribal residents’ experiences in the Clearwater Basin are to the livelihoods and longitudinal health and stability of their families and communities, as distinct from simple economic development or growth. The following report discusses the survey and interview results of our project in greater detail.

## Introduction

Initiated in June 2015, this project was conceived as a response to the US Forest Service Corridor Study (2015), which was a required component of assisting consultation between the US Forest Service and the Nez Perce Tribe regarding oversized industrial shipments (known locally as “megaloads”) through both the Nez Perce Reservation and through Nimiipuu ancestral lands that reach well beyond the Reservation’s boundaries toward Montana. The Nez Perce people who are being surveyed consider the Highway 12 corridor and bordering areas as part of the history and culture of the Nimiipuu due to significant sites and areas that are culturally and spiritually important to the Tribe and its members. As tribal occupation and use of these areas well pre-dates modern settlement by non-Indians and is secured by the Treaty of 1855 and related agreements and decisions, the area examined in this survey is considered critical and important homeland for current and future generations of Tribe members.

## Perceptions of Environmental Health of the Clearwater Basin

We asked Nimiipuu respondents to rank on a four-point scale how healthy they thought the environment along the five major rivers of the Clearwater Basin are. The following Graph (Figure 1) illustrates the percent of respondents who answered each category.

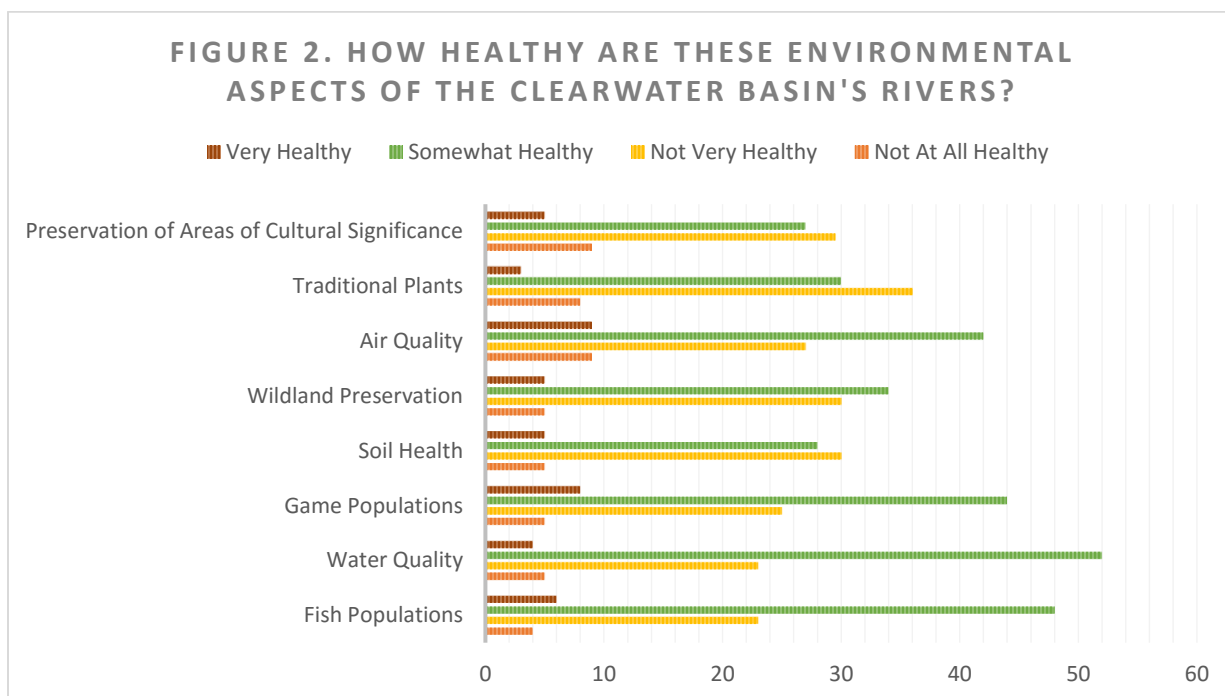


*Note: These percentages do not total 100%, as respondents were also able to answer “Unsure” for each of these questions.*

The majority of Nimiipuu survey respondents answered “Very Healthy” or “Somewhat Healthy” for all of the rivers, though this excludes anywhere from 17% to 26% of those respondents who said they were “Unsure” about the health of the different rivers. Nearly one-third indicated concern about the

Middle Fork and the North Fork of the Clearwater, answering that they were “Not Very Healthy” or “Not At All Healthy.” A quarter of respondents showed similar concern for the health of the South Fork.

In another series of questions, survey respondents were asked to consider the overall health of the environment around these rivers, delineating different aspects of environmental health: water quality, fish populations, game populations, traditional plants, soil health, wildland preservation, air quality, and preservation of areas of cultural significance. Figure 2, below, shows the distribution of respondents’ answers to each of these elements.



*Note: These percentages do not total 100%, as respondents were also able to answer “Unsure” for each of these questions.*

Over 50% of Nimiipuu survey respondents indicated that water quality, fish populations, game populations, and air quality were either “Very Healthy” or “Somewhat Healthy.” The greatest level of concern (answering “Not At All Healthy” or “Not Very Healthy”) was shown with regard to the health of traditional plants (44%) and the preservation of areas of cultural significance (38.5). Over one-third of Nimiipuu respondents also expressed concern for the health of air quality, wildland preservation, and soil health.

*“As a tribal member it has become increasingly difficult to find and gather roots and plants that we have used for 1000s of years.”*

*“The commercial harvest of our berries and roots is causing problems with gathering. There are a lot of plants (wild onion and carrot) that are getting harder to find, as well. I can still find qaws qaws, but camas fields are being lost every year.”*

*“Same issue as for game; invasive weed transport on highway [12]”*

Besides commercial harvests, respondents noted several other activities and environmental hazards threatening plant populations. These include,

- The introduction of invasive plant species and/or European “old world” plants
- The impacts of industrial activities, such as timber harvests, livestock grazing, and chemical spraying on agricultural lands
- Road expansion and use, including increasing legal and illegal use of ATVs
- Climate change outcomes, such as frequent drought conditions, hotter summers, and vulnerability to wildfires

Nearly 40% of Nimiipuu respondents also indicated concerns regarding the preservation of culturally significant sites for the Nez Perce Tribe. Respondents reported the following activities as having a negative effect on these sites:

- Vandalism
- Construction projects taking place without prior researching of cultural significance of sites
- Increasing road densities and increased traffic in the region
- Development and expansion of campsites in the region

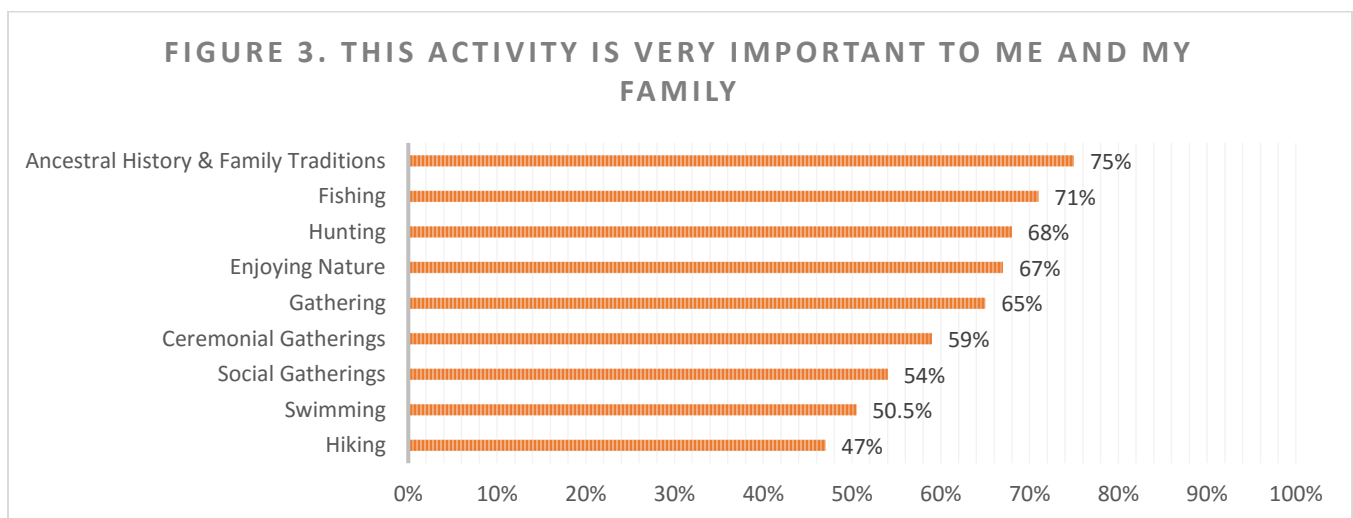


Photo 2: qém'es

Source: Eastern Washington University

### Respondents' Relationship to the Nez Perce Ancestral Territory

Another section of the survey asked Nimiipuu respondents about the kinds of activities and experiences in the region surrounding the Clearwater, Lochsa, and Selway Rivers important to them. Figure 3, below, ranks each activity by the percent of respondents who answered “Very Important.”



At least two-thirds of respondents said that ancestral history and family traditions, fishing, hunting, and enjoying nature are very important activities for them and their family in this region. Most



important among these activities are the ancestral history and family traditions associated throughout the region.

Following this series of questions regarding the above activities, respondents were also asked the question, “Do you depend on harvesting food or other resources in the Clearwater Basin?” Nearly two-thirds (64%) answered, “Yes.” Respondents were also asked “Who do you usually harvest for?” Most respondents (87%) said they harvest for themselves, while 15% reported also harvesting for their families and 5% also harvesting for their communities.

Respondents reported harvesting a variety of food and resources within the area, including *deer (whitetail, blacktail, mule), elk, moose, bighorn sheep, salmon, trout, steelhead, sturgeon, turkeys, grouse, pheasant, quail, huckleberries, elder berries, thimble berries, wild strawberry, apples, plums, cherries, nuts, qaws, qem’es (camas), mountain tea, wew’iim, herbs, medicinal plants (qaws qaws, cedar, balsam fir, mullan), pasq, mushrooms, knic knic, alder, hopopz, hippow, níicka níicka, wild onions, bear grass, and mosses.*

### Nez Perce Respondents’ Perspectives on Industrial Uses of the Highway 12 Corridor

This project began following a series of blockades of US Highway 12 protesting megaload shipments through the Nez Perce Reservation and adjacent treaty-protected lands in 2013 (refer to Johnson 2013 and Russell and Hill 2013). On August 7, 2013 Nez Perce Tribe and Idaho Rivers United filed a lawsuit against the US Forest Service seeking an injunction to stop any additional oversized, industrial shipments scheduled to travel on US Highway 12. Concerned that few or no Nimiipuu members were aware of how the USFS ethnographic corridor study was being conducted and how (and how many) Nimiipuu were selected to contribute to it, various affected parties expressed interest in conducting a separate, independent study focusing solely on Nimiipuu experiences and perspectives. Part of the endeavor was to understand the extent to which Tribe members, themselves, supported the expansion of commercial transportation on Highway 12 traveling through their reservation and ancestral territories. As explained earlier, the sample of 187 Nimiipuu members included in this report is not a representative sample of the population. It over-represents older people and women, and a disproportionate amount of respondents are highly educated, with a 2-year college degree or higher. That said, this sampling pattern may also be considered a strength, as it includes

64%

*Number of Nimiipuu respondents who report they depend on harvesting food or other resources in the Clearwater Basin.*



Photo 3: qaws

Source: Eastern Washington University

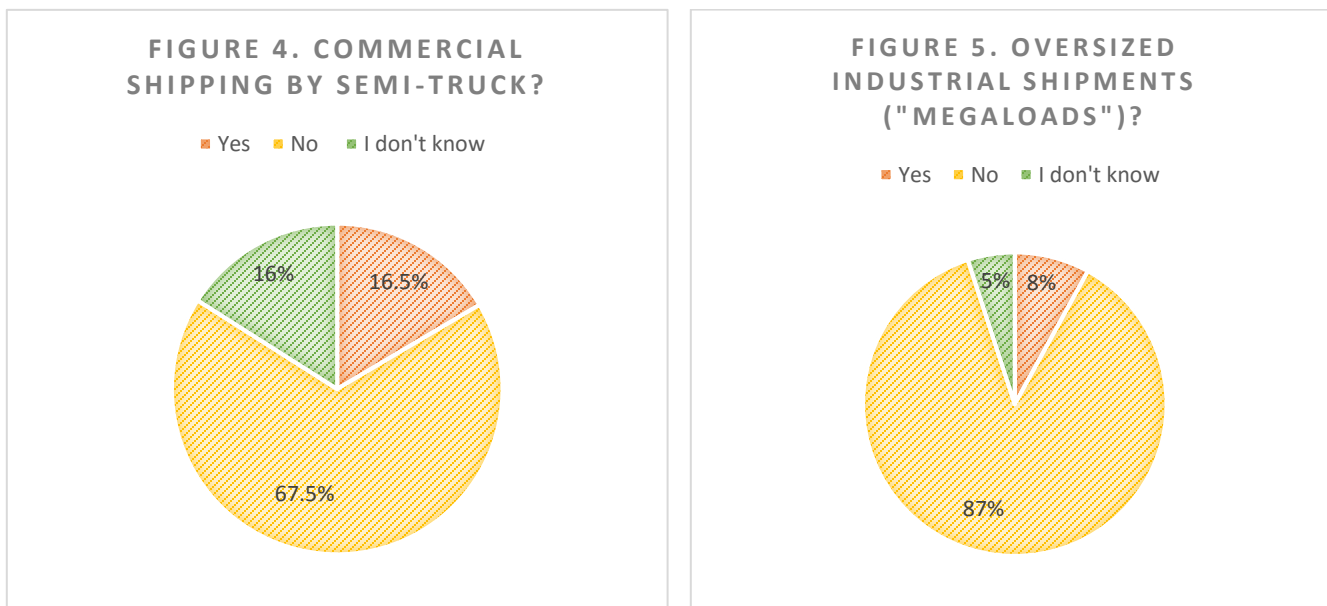


Photo 4: bear grass

Source: USDA

many Nimiipuu respondents who oversee the Tribe's governance and maintenance and directly engage the current issues the Tribe faces.

Respondents were asked two questions regarding commercial transport use of Highway 12. One question asked, "Do you think commercial shipping by semi-truck is an appropriate use of the highway 12 corridor? A second question asked, "Do you think oversized industrial shipments ("megaloads") are an appropriate use of the Highway 12 corridor? Figures 4 and 5 show the distribution of responses.

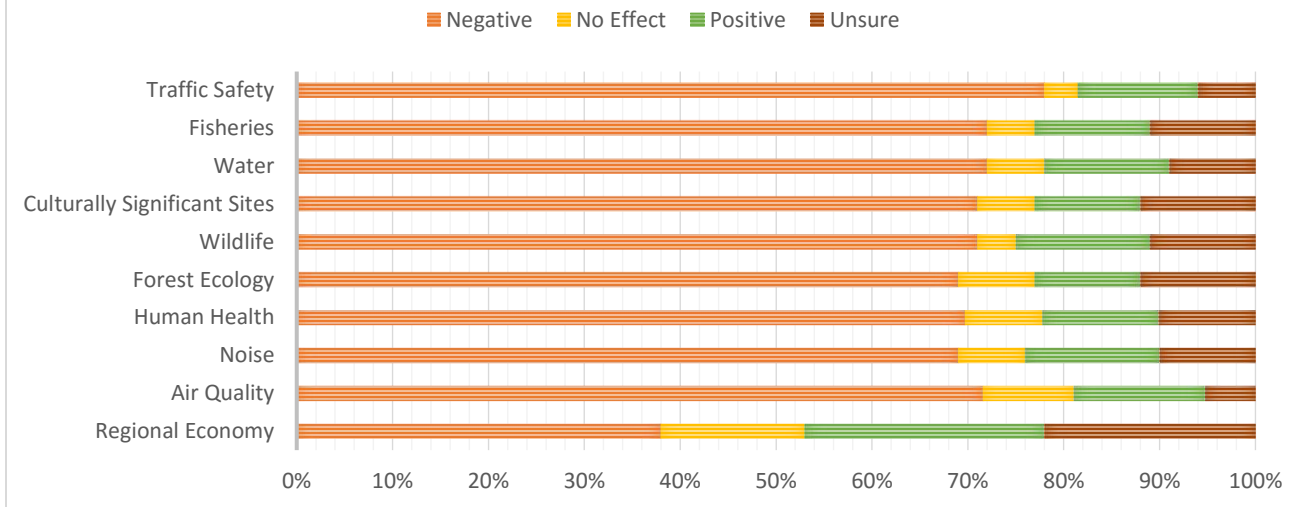


Over two-thirds of Nimiipuu respondents said they did not think commercial shipping by semi-truck is appropriate use for Highway 12, and an overwhelming majority (87%) said that oversized industrial shipments are not an appropriate mode of commercial shipping on the Highway 12 corridor.

These results present a stark contrast to the IACI (Idaho Association of Commerce and Industry) study conducted in 2011 (refer to the Methods Section at the end of the report for an elaboration of the sampling design and sample size for the IACI survey). The 2011 IACI Survey reported that up to 68% of its respondents residing in the four Highway 12 Region counties (Clearwater, Idaho, Lewis, and Nez Perce) said that oversized trucks "Should be allowed" to travel on U.S. Highway 12 in North Central Idaho between midnight and 6 am. The IACI survey did not oversample Nimiipuu members, which means that their perspectives were underrepresented despite their performing a significant role in natural resource and fisheries management in this region. The results from our survey, which focuses exclusively on Nimiipuu experiences and perspectives illustrate the extent to which Nimiipuu members may be excluded from consideration during policy decision making. Neither the IACI survey nor the USFS ethnographic corridor report (March 2015) make clear how they take account of Nimiipuu perspectives in any systematic way.

By contrast, in our study of Nimiipuu concerns about the effects that oversized industrial shipments ("megaloads") would have on Highway 12, the following responses were given:

**FIGURE 6. WHAT KINDS OF EFFECTS WOULD OVERSIZED INDUSTRIAL SHIPMENTS ON THE HIGHWAY 12 CORRIDOR HAVE ON THE FOLLOWING?**



An overwhelming majority of respondents reported they thought the effects would be “Negative” or “Very Negative.” There is a broader range of perspectives regarding the effects on the regional economy. The largest number of respondents still indicated they thought there would be negative effects on the regional economy, though a quarter said they thought there could be positive effects and 22% reported being unsure of the effects. We are unable to compare these responses to any questions in the IACI survey, since that survey did not ask respondents about the kinds of effects they thought oversized trucks would have on different environmental or health dimensions in the region, nor even on the regional economy.

## APPENDIX A: METHODS

The project methods described here were constructed on the premise that this be research that Nimiipuu create, conduct, and use as they see fit. Our aim has been to produce research of, by, and for Nimiipuu. Two methods comprise this research project: a survey of enrolled Nimiipuu members and in-depth interviews with enrolled Nimiipuu members. This project is considered “in-progress,” so the results stated in the above report are considered incomplete. Ordinarily we would wait until we have exhausted all opportunities for survey and interview completions. We feel, however, that the Nimiipuu experiences we have recorded through data collection are important relative to the Idaho Transportation Department’s (ITD) most recent calls to reassess the use of oversized, industrial shipments (locally known as “megaloads”) and specifically relative to ITD’s recent call for comment from Idaho residents.

Below, each method (research aim, sampling design, and methodology) is described in greater detail. Readers should be aware that these methods attempt to address weaknesses inherent in two recent and influential studies of US Highway 12 and its use as a “high and wide” transport corridor for oversized, industrial megaload shipments. The two studies are the US Forest Service Report, “Values of the Middle Fork Clearwater and Lochsa River Corridor Potentially Affected by Certain Over-Legal Truck Traffic US Highway 12” (final version issued March 2015), and the Idaho Association of Commerce and Industry (IACI) “Project #101729 ID Statewide Survey” conducted by Public Opinion Strategies in 2011. A short summary of each study and its methodological weaknesses follow the descriptions of our project’s two methods.

### Survey Method

Nimiipuu researchers worked with Leontina Hormel to construct a survey instrument that emphasized key aspects of Nimiipuu culture and livelihoods and how these are connected to different places in the Clearwater Basin (refer to Appendix C for the complete survey questionnaire). Besides basic demographic information, the survey was organized by four themes:

- Environmental health of the Clearwater Basin
- Respondent’s relationship to Nez Perce ancestral territory
- Industrial uses of the Highway 12 corridor
- Nez Perce Tribe efforts in environmental protection and enhancement

We finalized the survey instrument in early July 2015 and received NPTEC authorization at the end of July 2015. After authorization, we created an online version of the survey using Qualtrics® research software. By September 27, 2016, we obtained 134 completed paper surveys and 54 completed online surveys (n=187).

Survey sampling relied on non-probability techniques, combining both referral and convenience sampling. This choice is a consequence of limited resources for conducting the survey. A telephone survey using a sampling frame of mobile phones and landlines would follow a probability sampling

process, but the high cost of accessing these kinds of phone lists was untenable, as were telephone interview labor costs. Thus, our strategy was to recruit respondents through a variety of ways: surveying attendees at major Nez Perce Tribe events (e.g., General Councils and Pow Wows), through social networks (referral sampling), announcements through the Nez Perce Tribe electronic help desk, at Native American Student Centers at LCSC and UI, and in the *Ta'c Tito'oqan News* monthly newspaper.

Below, the demographic distribution of our sample is provided. The distributions show gender, age, and education biases. A majority of the respondents (71%) were women. Over half of the respondents (59%) were 55-years-old or older. And over half (56%) of our respondents earned at least a two-year degree in college. Considering the places we recruited survey respondents, this is not that surprising since places like General Council and the electronic help desk site are recruiting from those people who are employed in the Nez Perce Tribe or otherwise actively engaged in decision-making processes on behalf of the Tribe. While non-probability sampling for surveys is not ideal, one of the strengths of this sample may be seen in the extent of the awareness shared among respondents regarding natural resource management and tribal governing policies. Below, we provide complete percent distribution tables for gender, age, and educational background.

TABLE A-1. SEX IDENTIFICATION

Female	71%
Male	29%
TOTAL	100%

TABLE A-2. AGE

18-34 years	11%
35-44 years	10%
45-54 years	20%
55-65 years	31%
>65 years	28%
TOTAL	100%

TABLE A-3. EDUCATIONAL BACKGROUND

8 <sup>th</sup> grade or less	0%
Some high school	1%
High school diploma/GED	21%
Some college	22%
Professional or technical certificate	9%
Associate's or 2-year degree	14%
4-year degree	21%
Graduate or professional degree (e.g., MS, MA, PhD, JD)	12%
TOTAL	100%

## In-Depth Interview Method

Nimiipuu researchers also worked to build a list of interview questions that would go into greater depth about members' experiences and cultural connections to the Clearwater Basin. We plan to conduct up to 36 interviews with different Nimiipuu who represent a range of experiences given their status as elders; as fishers, hunters, or food-gatherers; as leaders in community organizing; or as tribal youth. The themes from the survey were integrated with in-depth interview questions. In-depth interviews are valuable to this study as they contextualize the answer patterns in the survey. They also provide thick description of Nimiipuu experiences, revealing how and why Nimiipuu may support certain types of activities or policies over others, and the ways in which they interpret their own and other members' roles in stewarding the Clearwater Basin ecosystem. The following broad questions were asked during interviews. Interviews were unstructured (conducted as conversations versus following a strict sequence of questioning). Some interviews lasted as little as 5 minutes, though most interviews took anywhere from 1-2 hours.

TABLE A-4. IN-DEPTH INTERVIEW QUESTIONS

When thinking about your experiences as a Nimiipuu member, what are a couple of places you consider important in this region (in the Clearwater Watershed or beyond)?
What is your personal connection to these places?
Do you depend on harvesting food or other resources? What do you harvest, and is this just for you? For your family? For your community?
Have you participated in environmental actions? Examples: awareness raising activities for protecting significant cultural sites in the region and other related activities
What do you see as the biggest loss in the Clearwater Basin?
What future would you like to see for the Nimiipuu?
What are some things you hope <b>not</b> to see in the future for the Nimiipuu?
If you could highlight the most important thing that will help the Nimiipuu survive into the distant future, what would it be?

## APPENDIX B: OTHER STUDIES ABOUT CLEARWATER BASIN RESIDENTS' ENVIRONMENTAL AND CULTURAL VALUES

Idaho Association of Commerce and Industry (IACI). 2011. "Project #101729 ID Statewide Survey." Conducted by Public Opinion Strategies.

The IACI survey was conducted by telephone from December 7 to December 9 in 2010 by Public Opinion Strategies. The survey sampled from two target populations: all adults living in Idaho and all adults in the Highway 12 region. They obtained 400 completions for the statewide sample and 150 completions for the Highway 12 region with a reported margin of error of  $\pm 4.18\%$ .

Sampling for the IACI survey relied on telephone listings for its sampling frame, and thus had the opportunity to employ probability sampling techniques. According to Public Opinion Strategies, though, the sampling technique did not follow standard procedure for random selection. Instead, the process was one where numbers were called and continually added to the list until the goal for the sample size (400 or 150) was reached. This is not random, since telephone survey protocol requires that survey units call numbers back if they do not successfully reach them in the first attempt. In fact, this is to be repeated several times before a number is no longer part of the sampling frame and considered a "no response." This is one inherent weakness in the survey's sampling design.

Another weakness in the sampling design is mentioned earlier in the report in that survey did not attempt to discern between Nez Perce and non-tribal respondents. The only demographic data collected were age, educational level, income, political affiliation, political ideology, presidential candidate preference (John McCain, Barack Obama, Bob Barr, Ralph Nader, or someone else), gender, community size, and proximity of residence to US Highway 12. Thus, there is no opportunity to understand whether tribal membership has any effect on people's perceptions of best uses of the corridor. Given the important role the Nez Perce Tribe has in managing various kinds of natural resources in the region, this leaves a significant knowledge gap about residents in the region and impairs the ability for different stakeholders to base decisions on all of the region's communities and their needs. For this reason, a survey of Nimiipuu experiences and perceptions in the Clearwater Basin fills an important gap in information.

US Forest Service. 2015 (March). "Values of the Middle Fork Clearwater and Lochsa River Corridor Potentially Affected by Certain Over-Legal Truck Traffic US Highway 12." Missoula, MT: USFS Northern Region Corridor Study.

The US Forest Service Corridor Study employs a qualitative research design using in-depth interviews with 7 Nez Perce members who were recruited in the following manner (USFS 2015: A-1):

*A list of possible discussants was generated that included some tribal leaders, Nez Perce Tribe professional staff, people recommended by tribal leaders, people living near the corridor, and others not residing near the corridor, but who might feel comfortable discussing these topics with the Forest Service. An effort was made to include men and woman of varying ages.*



Interviews with Nez Perce members took place over the course of four days: August 27 and 29, 2013, and September 18 and 23, 2013. One interview was conducted over the phone, and the remaining six interviews were conducted face-to-face with two USFS researchers present at each, taking handwritten notes during the interviews. The same two USFS researchers attended the Nez Perce General Council sessions in Kamiah, September 26 to 28, 2013, noting the main themes that arose during discussions of megaloads that mostly took place on September 26 (USFS 2015: A-1). Further cultural context was researched through literature review using eight sources cited in this same section of the USFS report.

The USFS ethnographic study also interviewed non-tribal people, drawing a snowball sample (or referential sample) of 46 individuals, many of whom were named when interviewees were asked to suggest people who were viewed as “‘opinion leaders’ – people who could discuss their own values and issues, but understood and could explain other’s viewpoints” (USFS 2015: B-1). According to the report, the final sample of non-tribal participants’ views could be broken into thirds; one-third were neutral to the issue of megaloads, one-third supported, and one-third opposed.

In describing the strengths of qualitative research, the USFS report states that rather than predetermining what is valued and important for study participants – which is what happens with survey questionnaires – non-survey methods like ethnographies allow the range of values to be exposed by those being studied. According to the report, qualitative research gets more directly at social values, the prominent element in the USFS study’s purpose, which is,

*To learn about the varied values, issues, concerns, opinions and perceptions held by people associated with the transportation of mega-loads on Idaho Highway (Hwy) 12, particularly “outstanding and remarkable values” (USFS 2015: B-1).*

Nimiipuu researchers spent time outlining the main components to the sampling design and methodology for the USFS report, since doing so allows readers to understand the purpose of conducting a Nimiipuu-focused study that expands on findings from the Forest Service report. It is true that qualitative work can offer thick description of the meanings people attach to places and to their experiences in those places, which is why our study has also been collecting information in this way. The drawback to relying solely on this one methodology, though, is that one has no idea the extent to which these views and experiences are more broadly shared. Given the long history of Nimiipuu culture in the region, as well as treaty agreements tied to these ancestral lands and the Nez Perce Tribe’s leadership in natural resource management in the region, using a small sampling of people and literature to comprehend the range of views amongst tribal members makes it difficult to gauge how important certain experiences and environmental connections are for Nimiipuu. As is the case with the interviews of non-tribal people, the results of the study give the impression that each perspective on megaloads is equally represented and that these perspectives are equally valid. While this allows us to understand the range of views, it does not help us reach policy decisions that can be substantiated by the changes previous commercial activities have had in the Clearwater Basin and how those observed changes lead Nimiipuu to certain conclusions that may widely shared. The combination of survey and interview research with Nimiipuu gets us closer to being able to do this.



## APPENDIX C: SURVEY INSTRUMENT

### Nez Perce Environmental and Cultural Values Survey

***This survey collects information from Nez Perce Tribe members*** about the different ways they interact with nature within the Clearwater Watershed, as well as members' perceptions of whether commercial transportation would have any effects. Your participation in this survey is voluntary. You may refuse to participate without any penalties. If there are any questions you do not want to answer when you are completing the survey, please feel free not to answer them.

**Directions:** Please mark and/or write down the answer that best applies for you. Only Nez Perce Tribe members, 18 years or older, are invited to complete this survey.

NOTE: If you have already completed this survey recently, please do not complete it again. Thank you!

#### **Basic information about you**

1. I am (mark all that apply),

\_\_\_ enrolled in the Nez Perce Tribe \_\_\_ enrolled in another tribe, list here \_\_\_\_\_

2. I am \_\_\_ Male \_\_\_ Female

3. Year you were born: \_\_\_\_\_

4. Your educational background:

8 <sup>th</sup> grade or less	Professional or technical certificate
Some high school	Associate's or 2-year degree
High school diploma/GED	4-year degree
Some college	Graduate or professional degree (e.g., MS, MA, PhD, JD)

5. In what town and state do you reside? \_\_\_\_\_

6. Your employment status:

Employed (full-time)	Full-time homemaker
Employed (part-time)	Looking for work
Holding a job, but on temporary layoff from work or waiting to report	Retired
Full-time student	Disabled
Serving on active duty in the Armed Services	Other (specify):

7. If employed, what is your occupation?

Job title:

8. In what industrial sector are you employed?

Agriculture, forestry, fishing, mining	Education (all levels)	Arts, entertainment, recreation, accommodation, or food services
Construction	Finance, real estate, insurance	Other services (auto repair, religious institutions, nonprofits)
Manufacturing	Professional, scientific, management, administrative (lawyers, architects, etc.)	Public administration (fire department, police, courts, city/state/federal employees)
Retail	Health care and social assistance	Information (for instance, library or radio)

**Environmental health of the Clearwater Basin**

9. How healthy do you think the environment along the Middle Fork of the Clearwater River is currently?

Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
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10. How healthy do you think the environment along the North Fork of the Clearwater River is currently?

Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
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11. How healthy do you think the environment along the South Fork of the Clearwater River is currently?

Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
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12. How healthy do you think the environment along the Selway River is currently?

Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
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13. How healthy do you think the environment along the Lochsa River is currently?

Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
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14. Consider the overall health of the environment around these rivers, how healthy are different aspects of it?

Water quality:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Fish populations:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Game populations:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Traditional plants:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Soil health:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					

Wildland preservation:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Air quality:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					
Preservation of areas of cultural significance:	Very healthy	Somewhat healthy	Not very healthy	Not at all healthy	Unsure
How so?					

**Your relationship to the Nez Perce ancestral territory**

15. What kind of activities or experiences make the region surrounding the Clearwater (North Fork, Middle Fork, and South Fork), Lochsa, and Selway Rivers important to you? Please mark all that apply and indicate how important each activity is to you and your family.

<b>Experience/Activity</b>	<b>Specific locations, activity details</b>	<b>Not Important</b>	<b>A Little Important</b>	<b>Important</b>	<b>Very Important</b>
Fishing					
Gathering					
Hunting					
Social Gatherings					
Ceremonial Gatherings					
Swimming					
Hiking					
Enjoying Nature					
Ancestral history & family traditions					
Other experiences?					

16. Do you depend on harvesting food or other resources in the Clearwater Basin? \_\_\_\_ Yes \_\_\_\_ No

17. What do you harvest? Please specify.

18. Who do you usually harvest for? Mark all that apply.

For you	For your community
For your family	Other, specify:

**Industrial uses of the Highway 12 corridor**

19. Do you think commercial shipping by semi-truck is an appropriate use of the Highway 12 corridor?

\_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ I don't know

20. Do you think oversized industrial shipments ("megaloads") are an appropriate use of the Highway 12 corridor?

\_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ I don't know

21. How long have you been aware of the controversy about megaloads on Highway 12?

\_\_\_\_ only heard about them now \_\_\_\_ less than a year \_\_\_\_ 1-2 years \_\_\_\_ more than 2 years

22. What kinds of effects would oversized industrial shipments on the Highway 12 corridor have on the following?

Kinds of Effects	Very Positive	Positive	No Effect	Negative	Very Negative	I don't know
Air quality						
Culturally significant sites						
Fisheries						
Forest ecology						
Human health						
Noise						
Regional economy						
Traffic Safety						
Water						
Wildlife						
Other (please specify)						

### **Nez Perce Tribe Efforts in Environmental Protection and Enhancement**

23. In general, how effective do you feel Nez Perce tribal leadership has been in environmental protection and enhancement?

Tribal leadership has been very effective.	Tribal leadership has been effective.	Tribal leadership has been neither effective nor ineffective.	Tribal leadership has been hardly effective.	Tribal leadership has not been effective.
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24. Below, a list of different areas of environmental protection and enhancement is provided. For each of these areas, please indicate whether **Nez Perce tribal leadership's role in each should be decreased a lot, decreased a little, stay the same, increased a little, or increased a lot.**

	Decreased A Lot	Decreased A Little	Stay the Same	Increased A Little	Increased A Lot
Addressing risk of toxic spills on the Clearwater River and its tributaries.					
Addressing timber extraction in the area.					
Taking the lead on dam breaching.					
Protecting reintroduced wolf populations.					
Pursuing environmentally friendly economic development and policies.					
Other, please describe:					
Other, please describe:					

25. Have you participated in any forms of environmental activism on any of these issues? \_\_\_ Yes \_\_\_ No

26. If you answered, "yes" to question 25, what kinds of activism have you participated in?

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**Thank you for participating in this survey.**

## References

- Baird, Dennis, Diane Mallick, and W. R. Swagerty. 2015. *Encounters with the People*. Pullman, WA: WSU Press.
- Eastern Washington University (EWU) online Inland Northwest Plant images, accessed September 29, 2016:
- Photo 1: Qaws qaws or kouse kouse: <http://web.ewu.edu/ewflora/Apiaceae/lig%20can1%20inv2.jpg>
- Photo 2: Qem'es or camas: <http://web.ewu.edu/ewflora/Asparagaceae/cam%20qua1%20p2.jpg>
- Photo 3: Qaws or kouse: [http://web.ewu.edu/ewflora/Apiaceae/lom\\_cou1p.jpg](http://web.ewu.edu/ewflora/Apiaceae/lom_cou1p.jpg)
- Idaho Association of Commerce and Industry (IACI). 2011. "Project #101729 ID Statewide Survey." Conducted by Public Opinion Strategies.
- Johnson, Kirk. 2013 (September 25). "Fight Over Energy Finds a New Front in a Corner of Idaho." Accessed October 9, 2016, <http://www.nytimes.com/2013/09/26/us/fight-over-energy-finds-a-new-front-in-a-corner-of-idaho.html>
- Joseph, Alvin M. 1997 [1965]. *The Nez Perce Indians and the Opening of the Northwest, Complete and Unabridged*. Boston & New York: Mariner Books.
- Landeen, Dan, and Allen Pinkham. 1999. *Salmon and His People: Fish & Fishing in Nez Perce Culture*. Lewiston, ID: Confluence Press.
- McWhorter, L. V. 2000 [1940]. *Yellow Wolf: His Own Story*. Caldwell, ID: Caxton Press.
- Russell, Betsy Z., and Kip Hill. 2013 (September 14). "Megaloads not allowed through Idaho's Nez Perce Reservation," *The Spokesman-Review*. Accessed October 9, 2016, <http://www.spokesman.com/stories/2013/sep/14/megaloads-not-allowed-through-idahos-nez-perce/>
- US Department of Agriculture (USDA). "Wildflowers – Bear Grass." Accessed September 29, 2016, [http://www.fs.fed.us/wildflowers/news/images/xerophyllum\\_tenax.jpg](http://www.fs.fed.us/wildflowers/news/images/xerophyllum_tenax.jpg)
- US Forest Service. 2015 (March). "Values of the Middle Fork Clearwater and Lochsa River Corridor Potentially Affected by Certain Over-Legal Truck Traffic US Highway 12." Missoula, MT: USFS Northern Region Corridor Study. Accessed September 15, 2016, [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprd3832008.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3832008.pdf)



File Code: 1560  
Date: October 13, 2016

Ramon S. Hobdey-Sanchez  
Government Affairs Program Specialist  
3311 W. State Street  
PO Box 7129  
Biose, ID 83707-1129

Dear Mr. Hobdey-Sanchez:

In September we received a notice of the proposed rulemaking for IDAPA 39.03.11 – Rules Governing Overlegal Permittee Responsibility and Travel Restrictions. The notice indicated comments were to be submitted by September 30, 2016. However, your office granted the Forest Service an extension of the deadline to October 14, 2016. This letter contains the Forest Service's comments on the proposed amendment to IDAPA 39.03.11.

Draft Section 200.04 of IDAPA 39.03.11 states, "Nez Perce-Clearwater Forest Safety and Travel Requirements. As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce-Clearwater Forest (US 12 from milepost 74 to 174)."

In *Idaho Rivers United v. USFS*, 11-cv-95-BLW (D. Idaho Feb. 7, 2013), the Federal District Court for the District of Idaho entered a declaratory judgment concluding that the Forest Service and the Federal Highway Administration had erroneously concluded that they lack jurisdiction to review the Idaho Transportation Department's approvals of megaloads on Highway 12 through the Nez Perce-Clearwater National Forest.

On September 12, 2013, the same district court in a different lawsuit granted the Nez Perce Tribe and Idaho Rivers United's motion for a preliminary injunction. *Nez Perce Tribe, et al. v. United States Forest Service*, No. 3:13-cv-348-BLW (D. Idaho Sep. 12, 2013). Pending resolution of the merits of the lawsuit, the district court ordered the Forest Service to close Highway 12 between mileposts 74 and 174 to any Omega-Morgan megaload until the Forest Service conducted a corridor review to assess how the transport of megaloads may affect visitor and traveler experiences and cultural and intrinsic values associated with the corridor, and consulted with the Nez Perce Tribe.

In neither of these cases did the district court hold that the "United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce-Clearwater Forest." Because the first sentence of the proposed amendment erroneously states the district court's findings, it should be stricken.



The proposed amendment also states that the Forest Service has issued “written criteria to determine which ‘oversize’ loads will be subject to Forest Service review.” Although the Forest Service developed the criteria in Section 200.04a through considerable sharing of information and correspondence with the Idaho Transportation Department and with input from the Nez Perce Tribe, we have not formally issued the criteria. Therefore, references to the Forest Service should be stricken from sub-paragraph a. With these edits, sub-paragraph a would read as follows:

**04. Safety and Travel Requirements for US Highway 12 from milepost 74 to 174.**

- a. The following criteria will be used to determine which “oversize” loads will be subject to review:

Thank you for giving the Forest Service the opportunity to review the Draft Rules Governing Overlegal Travel and for giving us the extra time to do so.

Sincerely,

  
LEANNE M. MARTEN  
Regional Forester



October 13, 2016

Mr. Ramon Hobdey-Sanchez  
Idaho Transportation Department  
PO Box 7129  
Boise, ID 83707

**RE: Rules Governing Overlegal Permittee Responsibility and Travel Restrictions on Idaho State Highway 12**

Dear Mr. Hobdey-Sanchez:

Thank you for the opportunity to comment on the proposed rulemaking for IDAPA 39.03.11 regarding rules for truck permitting for oversized loads travelling on Idaho State Highway 12 ("US-12").

Tidewater Barge Lines ("Tidewater") is a marine transportation and terminal company based in the Pacific Northwest. Tidewater has been in business since 1932 and operates a fleet of towboats and barges and marine terminals on the Columbia and Snake River system. Tidewater employs approximately 280 employees who reside in Washington, Idaho and Oregon. Tidewater provides barging services for agricultural commodities, bulk cargo and heavy industrial loads which includes service to the Port of Lewiston. Barge transportation is the most economical and environmentally friendly mode of cargo transportation. It reduces wear and tear on our nation's roads and bridges and emits far less air pollution than other modes of cargo transportation per ton.

We have reviewed this proposed administrative rule change and feel it will benefit the public by aligning the Idaho Transportation Department over-legal permit requirements with criteria set forth by the U.S. Forest Service.

Tidewater understands that there has been a court order in place since 2013 regarding the closure of US-12 to oversized shipments. While we respect the sovereignty of the Nez Perce Tribe and the concerns the Tribe has raised about oversized shipments, Tidewater believes it is time to move forward to resolve the issue in a manner that addresses the Tribe's concerns and allows commercial use.

The inability to ship oversized cargo on US-12 has a negative impact on carriers like Tidewater, the Port of Lewiston and the economy of Idaho. Further, the closure prevents business opportunities and companies like Tidewater from bringing more family wage jobs to the region.

The bottom line is that we believe the proposed rulemaking changes provide the necessary requirements to assure that the transport of oversized shipments on U.S. Highway 12 can be done safely and address the concerns raised by the various stakeholders. We urge the Idaho Transportation Board to adopt the proposed rulemaking for IDAPA 39.03.11.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Curcio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert A. Curcio  
President & Chief Executive Officer



## ***Idaho Farm Bureau Federation***

500 West Washington Street  
Boise, Idaho 83702  
(208) 342-2688 Fax (208) 342-8585

October 12, 2016

Mr. Ramon Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
P.O. Box 7129  
Boise, Idaho 83707-1129

### **RE: Support for Proposed Rulemaking IDAPA 39.03.11- Rules Governing Overlegal Permittee Responsibility and Travel Restrictions- U.S./Idaho Hwy 12**

Dear Mr. Hobdey-Sanchez:

I am contacting you today to express the Idaho Farm Bureau Federation's (IFBF) support for the above-reference rulemaking which addresses oversized load permitting for non-reducible, oversized loads traveling between milepost 74 and 174 on north Idaho's U.S./Idaho State Hwy 12. The loads fall under the following criteria: 1) exceeds 16 feet wide and/or 150 feet long; 2) load movement requires longer than 12 hours to travel through the designated mileposts; or 3) load movement requires physical modifications of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

These criteria are identical to requirements set for the U.S. Forest Service (USFS) by a March 2013 Federal District Court injunction resulting from an action filed by the Nez Perce Tribe. Because of the ban on oversized loads, all loads over 16 feet wide are prohibited on this route. This includes common oversize cargo such as grain storage bins, modular homes, boats and farm and construction equipment.

In 2012, the Port of Lewiston extended its dock nearly 275 linear feet. In addition to heavy pick cargoes, this improvement allowed the Port to accommodate heavy roll-on/roll-off cargo. Shortly after this modification, the Port began receiving very large oil refinery equipment intended for over-the-road transport on U.S./Idaho 12 to the oil sands region of the Province of Alberta, Canada. The Port was ready for growth.

The U.S. Forest Service (USFS) was sued and a preliminary injunction from the U.S. District Court banned oversized loads on U.S./Idaho Highway 12 in September 2013. The injunction ordered a ban until a corridor study and consultation with the Nez Perce Tribe

(Tribe) was completed by the USFS to determine the compatibility of the oversize loads with the cultural and scenic values of the Clearwater River.

The study was completed in March 2015. Consultation since that time between the Tribe and USFS has been minimal and appears to be making no progress.


Prior to the lawsuit and subsequent injunction, the Idaho Transportation Department (ITD) conducted oversized load permitting on this route. Although the Canadian refinery equipment became the basis for the Tribe's court action, we believe ITD thoroughly addressed insurance, liability and all other concerns when considering those permits. The injunction took permitting authority from the State of Idaho and gave it to the USFS. This proposed rule helps return permitting authority to ITD.

The loss of barge transportation to and from the Port and the inability to move large cargo over this route has negatively impacted the Port of Lewiston and the economy of north central Idaho.

Idaho Farm Bureau's support for this rule is by no means intended to provide legitimacy to, or express agreement with, the Tribe's claims which resulted in the injunction. The proposed rule should not be used to provide credibility to the Tribe's action and subsequent court decision; but instead should be used as a catalyst for the consultation ordered by the Federal court.

Thank you for the opportunity to express our thoughts on this proposed rulemaking. Please contact Dennis Tanikuni at (208) 342-2688 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Searle". The signature is fluid and cursive, with the first name "Bryan" and last name "Searle" clearly distinguishable.

Bryan Searle, President  
Idaho Farm Bureau Federation

Ramón S. Hobdey-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
PO Box 7129  
Boise, Idaho 83707-1129

October 13, 2016

Dear Mr. Ramón S. Hobdey-Sánchez,

Thank you for the opportunity to submit a public comment on the State of Idaho's proposed rulemaking for oversized loads, megaloads, on Highway 12.

Let me give you a little background about myself. I was born and raised in Pullman, Washington. I grew up hunting, hiking and fishing on the Snake, the Grande Ronde, the North and Middle Forks of the Clearwater River, and the Lochsa River. Twice in the early 1980s I rode my bicycle up Highway 12 and over Lolo Pass on solo bicycle trips into Montana and Wyoming. I got to know that road pretty well at that time. Seventeen months ago I returned to Pullman and the Palouse Country in order to help care for my now 92-year-old father, who tells of fishing on the Lochsa when Highway 12 was being constructed in the early 1950s. After spending over 30 years in parts of Texas I know what a special part of the world I have returned to. I am overjoyed and full of gratitude to be living on the Palouse Prairie where I have quick access to some of my favorite scenic and wild areas.

Highway 12 and the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor hold a very special place in my heart. I was concerned when the first proposals to send megaloads over Highway 12 surfaced. Still living away from the region I was most heartened to learn of public resistance to the plan, resistance from the Nez Perce Tribe and the ultimate scrapping of the Highway 12 megaload plans.

I am disappointed to learn that the State of Idaho and the Idaho Transportation department are once again pursuing the possibility of transforming this rural and scenic highway into an industrial corridor. Are those proposing this transformation unaware of what a special area this is? I simply can't imagine the impact of the road upgrades required or the impact the slow-moving megaloads themselves would have on the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor.

I am thrilled to be permanently back in this part of the country. I've been gradually rediscovering the geographic region in which I grew up and developed. My future plans include joining friends who regularly run rafts and kayaks on the Lochsa river. I hope to once again ride a bicycle up Highway 12 and over Lolo Pass. I plan on backpacking up in the Selway-Bitterroot Wilderness. Just a few months ago I drove up through Kooskia, stopping at The Heart of the Monster in the Nez Perce National Historic Park, a spot I remember from a car trip with my family back in the 1960s. I love being back in this beautiful country. Shipping megaloads over this road, well, the idea of it truly boggles my mind.

I stand with my father, James F. Short, the public in general, the Nez Perce Tribe, and sports men and women everywhere in urging the Idaho Transportation Department to reject the the idea of sending megaloads over Highway 12. This is a most special part of the world! Please respect it.

Sincerely,

J. Michael Short  
Pullman, WA

**NATURAL RESOURCES DEFENSE COUNCIL**

October 14, 2016

*Via e-mail*

Ramon Hobdey-Sanchez  
Idaho Transportation Department  
P.O. Box 7129  
Boise, ID 83707  
(208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@itd.idaho.gov)

**Re: Natural Resources Defense Council Comments on Proposed Rule  
Governing Megaloads on U.S. Highway 12 (IDAPA 39.03.11)**

Dear Mr. Hobdey-Sanchez:

This letter constitutes comments to the Idaho Transportation Department (ITD) on its proposed rule governing megaloads on U.S. Highway 12 (IDAPA 39.03.11). The Natural Resources Defense Council (NRDC) has over two million members and online activists nationwide. NRDC uses law, science, and the support of its members and activists to protect the planet's wildlife and wild places and to ensure a safe and healthy environment for all living things. NRDC has worked to protect wildlands and natural values on public lands and to promote pursuit of all cost-effective energy efficiency measures and sustainable energy development for many years.

As a nongovernmental organization whose membership has long been involved in supporting the sustainable management of the lands and resources that are unique to Idaho and the Rocky Mountain region in general, we strongly oppose rules that would allow the Locsha River corridor to become a high and wide industrial corridor by facilitating “megaload” travel on Highway 12. NRDC and our members – particularly those who reside in Idaho and Montana – have previously expressed their concerns regarding previous proposals that would have facilitated the conversion of the Middle Fork Clearwater and Locsha Wild and Scenic River corridor into a high and wide transportation corridor.

Highway 12 bisects one of the wildest areas found anywhere in the world, and can easily be considered a national treasure. For these reasons, Congress designated the Middle Fork Clearwater and Locsha Wild and Scenic River corridor as part of the original suite of rivers bestowed with additional protections as detailed in the Wild and Scenic Rivers Act

of 1968. The corridor also attracts thousands of visitors from all over the world given the unique natural qualities the area is well known for due to its abundant wildlife, its solitude, quality fishing and hunting, and recreational opportunities. It is practically inconceivable that a framework that would allow for repeated supersized shipments to traverse the river corridor is compatible with these natural qualities.

These supersized shipments, in relation to the rules being contemplated by the Idaho Transportation Department (ITD), fundamentally differ with the historic practice that oversized loads have played along Highway 12. Rather these “megaloads” are the true concern with regard to what is being considered by the IDT rulemaking. Unfortunately what has been proposed by IDT fails to address a multitude of outstanding liabilities and critical deficiencies associated with these megaload shipments. More critically, the proposed rules seemingly ignore overriding federal concerns and regulations that guide the management of public resources within the Middle Fork Clearwater and Locsha Wild and Scenic River corridor.

NRDC believes the rule as proposed is fundamentally flawed, fails to address a number of critical questions, and is simply unnecessary. The following are some of NRDC’s primary concerns:

- Given that the management of Highway 12 is managed and operated with federal funds, along with the fact that the corridor intersects federal lands and is managed in cooperation with the U.S. Forest Service (USFS), any proposed rule should be evaluated under the National Environmental Policy Act (NEPA) given that this rule does qualify as a major action given how it would impact federal resources.
- In addition to the necessity of needing to be in compliance with NEPA, IDT should prepare an environmental impact statement (EIS) for this rule proposal. We believe the scope of the rule proposal is broad, and the current process and the analysis is too limited in scope. Important issues about the project are not being considered, or are insufficiently considered. An EIS is in keeping with requirements of federal law in concert with the level of public interest this proposal has generated.
- Additional considerations must be incorporated in the scope of the rule proposal. The currently proposed rule would have far and wide impacts beyond what is being articulated by IDT. Additional analysis must meaningfully consider the direct and cumulative environmental and economic impacts of this rule proposal by creating a permanent High/Wide corridor in the region. Additional socio-

economic considerations need to be analyzed and considered through a formal consultation process with the communities and other parties that are directly tied to the US 12 corridor.

- The rule process must incorporate the range of feedback already provided by federal agencies regarding the potential conversion of this region into a High/Wide transportation corridor. The USFS has already commented in previous megaloads proposals, detailing the range of conflicts that should already be known to IDT but are not reflected in the proposed rule. Without additional analysis, it is difficult to substantiate how IDT plans to remedy and address previously identified issues in a manner that would satisfy existing federal statute. These previous statements by consulting federal agencies are seemingly being ignored by IDT.<sup>1</sup>
- A full economic analysis must be contemplated. The current IDT FAQ states that there is “no fiscal impact to the Department.” Based on the range of previously documented megaload attempts, we know that considerable costs were incurred by state and federal agencies in an attempt to facilitate these types of shipments. In addition, there should be a robust analysis of the economic costs that would be incurred to the communities that would be impacted by such shipments, along with the potential, if not likely loss of revenue that is generated by visitation within the US 12 corridor.
- The purpose and need for the rule needs a more robust explanation. There is no analysis on how many megaload shipments are to be expected to be accommodated in the future, and to what extent are the limits of what could be accommodated by IDT within the US 12 corridor. Furthermore, given that megaloads shipments are already under judicial review by the federal courts, it is unclear what the purpose is for a new rule. Until the judicial review process is fully adjudicated, it appears that any proposed rule is a premature exercise given that the courts have already established that the permitting of megaloads through US 12 cannot occur unless IDT can satisfactorily address how the State of Idaho will meet existing requirements to protect the wild and scenic values of the corridor. Nothing in the proposed rule has been designed to meet the current standard as established by the federal courts.

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<sup>1</sup> As previously stated, the most efficient and equitable way to address these concerns would be through a robust NEPA process.



The previously articulated points are only a subset of concerns that NRDC has with the rule proposal. But at the very least, we believe that if IDT insists on considering a rule that contemplates the permitting of megaloads in the US 12 corridor, IDT must do far more to accommodate existing federal statute that govern the management of the resources that would be impacted by IDT's rule.

The US 12 wild and scenic corridor is one of the most treasured and unique natural areas of the country, an area that is beloved by a range of interests and stakeholders. Any rule proposal must accommodate those communities that will be most directly impacted by the shipments. At this juncture, it is not apparent the perspective and expertise that is inherent in these communities is being fully considered. Hence, NRDC strongly recommends that if IDT is still committed to promulgating a rule governing megaloads shipments, an environmental impact statement under the National Environmental Policy Act is an absolute requirement.

Sincerely,

Bobby McEnaney  
Senior Analyst  
Land & Wildlife Program  
Natural Resources Defense Council  
1152 15<sup>th</sup> ST NW Suite 300  
Washington, DC 20005  
202-289-6868  
[bmccenaney@nrdc.org](mailto:bmccenaney@nrdc.org)

I am writing in response to your rule making process in regard to allowing megaloads to pass through the Highway 12 corridor.

I came to Idaho from the Midwest 30 years ago to become a teacher in a small logging town. I watched as the “conservative” town fathers and the “liberal” back-to-the-landers came together to fend off a project that would have destroyed the quality of the river that ran through the town. The idea the profit might be progress when it would destroy the river, was just not acceptable. I have loved Idaho ever since.

Idaho has traditionally been a libertarian state—hands-off, let-me-live-my-life-in-peace as long as I do no harm; when there is need, we come together to help each other out. Today Idaho is beset by those intent on making a profit at the expense of its people, its land, its diverse cultures and traditions. While Idaho government entities criticize the federal government for its protection of Idaho wildlands, Idaho government agencies are themselves willing to ignore the will of the citizens to compromise public lands in the name of profit.

My question for the Idaho Department of Transportation is ***what is it in your hearts that makes you willing to sell out to those who would compromise the people, the land, and the resources of Idaho? As protectors of the highways that run through this amazing state, you have the ability to defend us all, yet you consistently move against the wishes of the citizens.***

The citizens moved through state and federal processes to designate Highway 12 as a National Scenic Byway and All American Road. As such it is required to have a corridor management plan developed with community involvement to provide for the conservation and enhancement of the byway’s “intrinsic qualities” which include its scenic, natural, cultural, historical, archaeological, and recreational characteristics.

Historical and cultural designations for the Highway 12 already include: the Northwest Passage Scenic Byway, the Lewis and Clark National Historic Trail, the Nez Perce Historical Trail, and the Lolo Trail National Historic Landmark. Highway 12 runs through both the historical homelands and current reservation of the Nez Perce people. The road and river and surrounding lands hold cultural, historical, archaeological, and spiritual significance for the all of the Nimiipuu.

Highway 12 runs along the Middle Fork of the Clearwater/Lochsa/Selway waterway which has been federally designated as a Wild and Scenic River. This designation mandates a comprehensive management plan to protect the river to within 320 acres on either side. Along the Clearwater this would include protections for the river bank, the roadway and its earthen infrastructure, the rocks and hills and forests and creatures along the river.

Yet you want to try and overrun all of this. I do not understand why you want to act as the school yard bully. I do not understand, when there is not even a profit in this venture, why you are willing to compromise our roadways and resources.

Because none of this logical or legal (according to the ruling by Judge B. Lynn Winmill), I can only conclude that for you this is an emotional issue; that personal pride and a desire for power must be at the basis of your decision-making, at the basis of your willingness to refuse to protect Idaho's roadways, people, and lands. I ask you to look into your hearts and make a choice to represent the residents of this great state in protecting the road, water, people, and wilderness along the Highway 12 corridor. No megaloads, just mega appreciation for what this part of Idaho has to offer to us all. Then we can all stand with you as proud and protective citizens of Idaho.

Thank you for this opportunity to help shape the future of Idaho.

Anne Remaley  
Bonners Ferry, Idaho

October 14, 2016

*Via e-mail*

Ramón Hobdey-Sánchez  
Idaho Transportation Department  
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**Re: IRU Comments on Proposed Rule Governing Megaloads on U.S. Highway 12  
(IDAPA 39.03.11)**

Dear Mr. Hobdey-Sanchez:

Idaho Rivers United (IRU) writes to submit these comments to the Idaho Transportation Department (ITD) on its proposed rule governing megaloads on U.S. Highway 12 (IDAPA 39.03.11). IRU strongly opposes ITD's attempts to convert Highway 12 to a high and wide industrial corridor and opposes megaload travel on the Highway.

Highway 12 is a vital part of the Middle Fork Clearwater and Lochsa Wild and Scenic River corridor. The corridor is a national recreational resource. The scenic beauty and recreational opportunities of the river corridor led Congress to include the Middle Fork Clearwater and Lochsa rivers among the original rivers designated for protection under the Wild and Scenic Rivers Act of 1968.

IRU's mission is to protect and restore the rivers of Idaho. Since being founded in 1990, Idaho Rivers United has become a powerful force for protecting and enhancing stream flows, improving water quality, and defending and promoting the many benefits that flow from Idaho's rivers. IRU represents 3,500 members, including people who live and recreate along Highway 12. IRU also represents the interests of thousands of citizens from across the nation who cherish Wild and Scenic rivers.

While IRU and its supporters understand the historic role that traditional oversized loads have played along Highway 12, IRU and many of its supporters strongly oppose new, larger, and slower oversized loads—"megaloads"—that are at issue in this rulemaking.

As set forth below, ITD's proposed rule misses the mark, and the agency's FAQs accompanying the proposed rule include inaccurate and misleading statements. Notably, the proposed rule does little if anything to address the real threats that megaloads pose to safety, recreation, and the environment along Highway 12. ITD should revise the proposed rulemaking to prohibit megaloads from using Highway 12, in order to protect public safety, convenience, state taxpayer dollars, and the many scenic and cultural values associated with the Wild and Scenic corridor.

### **Inaccurate Explanation For Using Non-negotiated Rulemaking**

In its FAQs on the proposed rule, ITD states: "Idaho Rivers United (IRU) and the Nez Perce Tribe brought an action to prohibit oversize loads on U.S. Highway 12. The Nez Perce Tribe and IRU have no apparent motivation to pursue a resolution in the mediation mentioned above. Thus, a compromise or consensus cannot be reached through negotiation."

This statement is wrong. IRU, the Nez Perce Tribe, and the Forest Service are actively working through the mediation in an effort to resolve the Forest Service's appeal of our successful lawsuit, which enjoins megaload travel on Highway 12. ITD knows this, as we reached out and invited ITD to participate in the mediation, even though ITD is not a party to the lawsuit. As reflected in the publicly available docket for the mediation, ITD did briefly participate the mediation, but ITD is no longer participating while the parties to the lawsuit continue to mediate this matter.

### **Erroneous Fiscal Impact Statement**

In its FAQs on the proposed rule, ITD asserts there is "no fiscal impact to the Department."

This is a gross misrepresentation. Based on our involvement with previous megaloads for which ITD issued oversized load permits, ITD incurred substantial costs in permitting megaloads and in overseeing the transport of megaloads in the few instances when they were actually transported on Highway 12 or an alternate route.

For example, based on the administrative contested case hearings conducted over the proposed ExxonMobil and ConocoPhillips megaloads in 2011-12, ITD staff devoted significant amounts of time evaluating the permit applications—including addressing whether Highway 12 bridges could handle the proposed loads, evaluating traffic safety control proposals, evaluating the roadway itself, and analyzing potential impacts on traffic patterns and delays—which represent internal administrative costs that must be calculated or estimated by ITD, and disclosed to the public.

Likewise, ITD staff spent what must have been hundreds of hours escorting and viewing the megaloads that were allowed to proceed up Highway 12 and dealing with the many unforeseen developments and problems that the megaloads posed. These include, but are not

limited to, the ExxonMobile “test” module that snapped a guy wire and knocked out power to many residents on the second night of its journey from Lewiston, and the numerous breakdowns and other problems that caused the ConocoPhillips and ExxonMobil megaloads to be parked along Highway 12—including within the Wild and Scenic corridor—for days at a time. ITD staff also spent significant time dealing with the Idaho State Police, and time on public meetings and responding to inquiries and communications from local residents upset about impacts of the megaloads on their use of Highway 12.

In addition, ITD incurred what were likely very substantial costs to conduct contested case hearings over the ConocoPhillips and ExxonMobil proposed megaloads, including renting space, hiring administrative law judges, expending staff time on the hearings, etc. These have never been quantified or reported to the public, to IRU’s knowledge. ITD should certainly expect that, if the new rule is adopted and further megaloads are permitted by ITD on Highway 12, there will likely be substantial opposition and challenges resulting in further contested case hearings. Those costs must be included in the fiscal analysis for the proposed rule.

ITD should thus review and disclose to the public the full costs that the agency incurred each time it previously permitted a megaload in Idaho, from the start of the permitting process through the transport and post-transport evaluation; and include an estimate of such costs moving forward if the new rule is adopted.

### **Misleading Statements About Historical Permitting of Oversized Loads**

In the FAQs, ITD states that it has issued permits for large and/or heavy loads on Highway 12 for decades. While this statement may be accurate, it glosses over important distinctions between traditional oversized loads and “megaloads” and, thus, misleadingly suggests that megaloads have been permitted on Highway 12 for decades, which is not true.

Traditional oversized loads have historically traveled and continue to travel on Highway 12. Traditional oversized loads were not at issue in the 2013 federal court decisions, are not at issue the mediation, and are not at issue in this proposed rulemaking.

Megaloads, on the other hand, are a new type of traffic never seen on Highway 12 before the initial ConocoPhillips loads approved by ITD in August 2010. Megaloads include only the largest, heaviest, slowest oversized loads—the most extreme oversized loads. Only a few have ever traversed Highway 12, all in recent years.

ITD’s own data shows that from March 30, 2013 through June 1, 2016, 1,856 Oversize Load permits were issued for travel on Highway 12. Of that number, roughly 350 of those permits were for travel through the Nez Perce – Clearwater National Forest and the Wild and Scenic River Corridor. This averages out to roughly one oversize load every 3.4 days. During that same time period of over three years, only one true megaload was permitted for Highway 12 (21’ wide, 24’ high, 255’ long and over 644,000 pounds in weight).

ITD does a disservice to the people of Idaho and the residents along Highway 12 by pretending that megaloads are simply another type of oversized load, when that is patently

untrue. Rather than hide the truth behind misleading statements, ITD should carefully explain, analyze, and disclose to the public the historical record of oversized loads and megaloads on Highway 12.

### **Purpose of the Rule**

In its FAQs on the proposed rule, ITD says: “The goal is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12.” Despite this statement, ITD nowhere identifies the “concerns previously expressed by the federal litigants”, and ITD never explains how this rule would address those concerns. ITD should be clear about the purpose of this rule, and should ensure that any rule it adopts will actually address the purpose of the rule.

In early 2013, U.S. District Judge B. Lynn Winmill ruled in our favor that the U.S. Forest Service has the authority to regulate activities on Highway 12 within the Nez Perce – Clearwater National Forest. Later in 2013, and, in response to Judge Winmill’s ruling, the Forest Service issued its “Interim Criteria” defining which oversized loads are megaloads that trigger Forest Service review before they can travel Highway 12 through the Wild and Scenic corridor on the Clearwater National Forest.

In early August of 2013—despite receiving notice from the Forest Service that an Omega-Morgan megaload was not authorized to enter the National Forest—ITD issued Omega-Morgan an Oversize Permit. The transport of this megaload was met with strong public protest and a second round of federal litigation in which Judge Winmill issued an injunction that closed Highway 12 to certain loads that exceeded the Forest Service’s Interim Criteria.

In the 2013 federal court decisions, Judge Winmill recognized that the 1995 federal highway easement allowing ITD to manage traffic on Highway 12 includes a “scenic clause” that requires protecting the Wild and Scenic values of the corridor. This was IRU’s main concern in the litigation: megaload travel significantly degrades the Wild and Scenic values of the Lochsa and Middle Fork Clearwater corridor. Yet ITD’s proposed rule does nothing to address IRU’s concern or Judge Winmill’s ruling. Instead of protecting corridor from megaloads, ITD’s proposed rule would allow ITD to permit megaloads to traverse the Wild and Scenic corridor nearly every day, thus flouting the easement deed and undermining Wild and Scenic corridor values.

### **Misleading Statements That The Rule Aligns With Forest Service Criteria**

In its FAQs, ITD misleadingly states that the rule would “align with the criteria set forth by the USFS” and goes on to list bullet point requirements from the proposed rules, suggesting these requirements satisfy the Forest Service. This is incorrect; the Forest Service never signed off on this list, and ITD cannot misleadingly suggest that ticking off each of these bullet points somehow addresses the Forest Service’s serious, and unresolved concerns and requirements for oversized loads on Highway 12.

### **Inadequate Criteria for Identifying Megaloads**

The proposed rule utilizes the Forest Service's 2013 Interim Criteria for identifying megaloads, and purports to treat them as permanent criteria even though the Forest Service has not yet conducted the environmental impact analysis and consultation with the Nez Perce Tribe that Judge Winmill directed.

ITD should acknowledge that the Forest Service criteria are "interim" and were adopted quickly to deal with looming threats of megaloads. The Forest Service has yet to adopt final criteria, and ITD is premature in incorporating criteria that have not yet been finalized by the Forest Service.

### **Inadequate Restrictions on Megaloads**

In 2010, during a Contested Case Hearing on megaload permitting, an ITD employee testified that consideration of Wild and Scenic values was not a part of ITD's permitting process for Oversize Loads—despite the requirement of the highway easement between the federal government and the state of Idaho to protect the scenic values of the Wild and Scenic River corridor.

The restrictions ITD proposes fail to address ITD's and the Forest Service's obligations to protect the National Forest and Wild and Scenic River Corridor as set forth in forest and river management plans, congressional directives, and the easement allowing ITD to manage Highway 12.

To comply with these obligations, no megaloads should be permitted on Highway 12. While traditional oversized loads have traversed the river corridor with some level of regularity over the years since Wild and Scenic River protections were enacted by Congress, megaloads are a new form of highway use that directly conflict with the Outstandingly Remarkable Values of the river corridor. Highway 12 is prized for its beauty, unparalleled recreational opportunities, and rich history. Megaload traffic ruins these values. Transporting just a single megaload makes the corridor essentially unusable for these purposes by clogging traffic and transforming the highway to a slow moving, crowded industrial zone.

Megaload traffic is, thus, an impermissible activity on Highway 12. Even the Forest Service has stated that megaload traffic is inappropriate for a Wild and Scenic River corridor. ITD should respect the authority of the Forest Service and should refuse to issue Oversize Permits for all loads that exceed Forest Service criteria.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Lewis", is positioned above a horizontal line.

Kevin Lewis, Executive Director  
Idaho Rivers United



October 14, 2016

To Whom It May Concern:

Following are my comments on the Idaho Department of Transportation's (Department's) Draft Rules Governing Overlegal Permittee Responsibility and Travel Restrictions.

General:

In general, I join many other citizens concerned that these Rules are premature at best. At worst, they are an outright demonstration of disrespect for the ongoing legal process concerning the movement of overlegal loads through Idaho involving the Nimiipu (Nez Perce), Forest Service, and Idaho taxpayers.

For Rules whose title includes an emphasis on "Permittee Responsibility," this draft shows remarkably little concern for the specifics of the responsibilities of Permittees / applicants. I pray that, for the safety of Idaho's affected communities and respect for Idaho taxpayers, if the Department insists on disregarding the ongoing legal process and acting unilaterally, it will at the very least include much more specific language (such as that suggested in the comments below) in the final rules.

The draft Rules cite Idaho Code 49-1004 as providing the Department statutory authority to create Rules for overlegal loads. It is important to note that the language here is "may," not "shall". As-is, the draft Rules read as if overlegal loads are entitled in Idaho. They are not; and any Rules governing them should reflect this fact. Overlegal load permits are a privilege, not a right. In all cases, the Department should prioritize the safety of Idaho's affected communities and the concerns of Idaho taxpayers over those of applicants for overlegal load permits.

Further, 49-1004 states that overlegal load permits "may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation." The Draft Rules as written are insufficient to provide the protection called for.

Specific:

Declaration of size and weight by applicant for overlegal permits is not sufficient to protect highways from injury (which duty is specified in Idaho Code 49-1004). Does the Department not have scales / staff available to verify applicants' claims?

Issuance of a permit without assurance of ability of pay should unforeseen "financial responsibility" be incurred is irresponsible. Overlegal permits should require a bond.

Section 2b. of the Draft Rules should be struck. Overlegal loads proposing to travel Idaho's Highways should be required to complete all applications and pay appropriate fees prior to

travelling Idaho's Highways. Department staff could easily leave Idaho taxpayers holding significant repair bills due to failure by the Department to require advance planning / payment by overlegal load applicants. Such an easily foreseeable and preventable event would be evidence of gross irresponsibility, if not negligence, by the Department.

Section 3. Must be more specific. Again, a simple single declarative sentence (for example, "I certify that steps have been taken to reduce the dimensions and/or weight of the vehicle") is insufficient evidence to demonstrate that the Department has fulfilled its responsibility to "protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation" (Idaho Code 49-1004). Applicants for overlegal permits should be required to specify what steps were taken, and when, to reduce load dimensions / weight, and provide documentation to the Department in advance to verify these claims. Such a request is entirely reasonable, and well within the ordinary business practices of haulers, who routinely document the contents of their shipments, shipment destinations, fuel use, drive time, etc. Idaho requires applicants for Supplemental Nutrition Assistance Program and unemployment benefits to provide verifiable documentation that they are engaged in a work search (including a minimum number of per-week contacts with potential employers). Certainly, it is reasonable for the Department to require similar verifiable documentation by applicants for overlegal load permits whose travels on Idaho's roads could cost Idaho's taxpayers exponentially more than any single individual applicant to Idaho's entitlement (i.e. survival-assistance) programs.

Section 4 should be struck. The idea of overlegal overlegal loads travelling Idaho's highways and bridges makes a mockery of the purpose of Idaho's State Legislature. Are unelected administrators to have the power to create exceptions to every law created by the Legislature?

Section 5, requiring a traffic control plan, is important and necessary. However, the necessity of such a plan underscores the irresponsibility of issuing overlegal permits on the fly. Certainly, a good traffic control plan requires significant advance planning. This section should specify that the cost of preparing and implementing a traffic control plan is the applicants' responsibility. Idaho's taxpayers should not be subsidizing companies proposing to move overlegal loads throughout the state. To do so would quickly negate the purported financial benefits of such loads to Idaho's taxpayers / affected communities.

Section 5, Subsection iii, regarding the identification of railroad tracks and emergency contact numbers, should include language specifying that railroad companies are to be notified in advance of overlegal load movement across railroad tracks. Railroads should be provided with specific timeframes of overlegal load movement across tracks, for both safety and business planning purposes.

Section 5, Subsection iv: the phrase "when necessary" at the end of this sentence is redundant and should be struck. It is always necessary to allow for the passage of emergency vehicles. Such

necessity should inspire significant caution on the part of Department administrators when considering approval of overlegal loads. In fact, Department officials should adopt the precautionary principle when considering applications for overlegal load permits; where the possibility exists that the ability of first responders to respond timely to emergencies due to interference by overlegal loads, permits for such loads should be denied. The lives and property of communities affected by overlegal loads should always take precedence.

Section 200.1: This section specifies that if movement is “not completed” along red-coded routes by 8am, overlegal loads shall be required to “safely park and not proceed until the next day.” The draft rules do not provide adequate assurance that such “safe” parking availability exists for overlegal loads along red-coded routes. Such assurance should be required, and provided by applicants for permits, prior to permit issuance.

Section 200.2: Allowing travel by overlegal loads of any size 24-hours a day, 7 days a week is irresponsible. Applicants should be required to show proper notification to and approval of travel along even black-coded routes by relevant emergency responders. Communities along black-coded routes should also be notified in advance of overlegal-load movement through their areas. Notification should include notice in the newspaper of record for each affected area at least 2 weeks prior to overlegal load travel.

Section 200.08: The Department has access to sufficient historical information regarding travel patterns, inclement weather seasons and road conditions to provide specific, route-by-route travel restrictions for overlegal loads. For the ease of planning by applicants and the Department and the safety of affected communities, this information should be specified in the rules. Overlegal loads should be specifically barred from travel in areas that experience weather events that create low visibility, require road closures or the deployment of snow-removal equipment / salting of roads, or significant increases of traffic / traffic incidents during the weeks, months, or seasons during which such events are known to occur.

Sincerely,

Shavone Hasse  
Boise, ID



# IDAHO CONSERVATION LEAGUE

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Ramón S. Hobdey-Sánchez  
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Via Email: [Ramon.Hobdey-Sanchez@itd.idaho.gov](mailto:Ramon.Hobdey-Sanchez@itd.idaho.gov)

October 14, 2016

## **RE: Idaho Conservation League Comments Regarding U.S. Highway 12 Rulemaking**

Dear Mr. Hobdey-Sánchez,

Thank you for the opportunity to comment on the Proposed Rule Changes that govern oversized vehicles and non-reducible loads traveling along Hwy 12 through the Nez Perce-Clearwater National Forest.

Since 1973, the Idaho Conservation League has worked to protect Idaho's clean water, wilderness, and quality of life through citizen action, public education, and professional advocacy. As Idaho's leading voice for conservation, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting and restoring our water, wildlands and wildlife.

The Idaho Transportation Department (ITD) is proposing the rules to clarify the terms and conditions for oversized loads and to increase efficiency during the permitting process.

While we appreciate the intent to clarify rules, procedures and conditions for the transport of oversize loads, we are concerned that the proposal is misrepresenting the ITD's jurisdiction, as well as the interim criteria established by the Forest Service.

As recent judicial decisions have made clear, the Forest Service retains jurisdiction over its lands, which extends to Highway 12. The trust responsibilities that the Forest Service retains to both the people of the United States and to other trustees, including the Nez Perce Tribe, are unaffected by the proposed rule. As a result, we feel that the ITD rule is premature and should be delayed pending any final outcome from the ongoing mediation between the Forest Service and other partners.

In addition, based on the hazardous conditions that extend from fall-spring each year on this mountainous, windy, and remote travel way, additional limitations are warranted when, and if, ITD moves forward with any rules.

Finally, with the regular accidents involving hazardous materials along Hwy 12 and the regionally and nationally significant waters (Lochsa and Middle Fork Clearwater Rivers) that are adjacent to the highway, we encourage ITD to consider seasonal and/or year-round limitations that would ensure that these waters are protected.

Please feel free to contact me if you have any questions about these comments and I look forward to working with you on this and other projects in the future.

Sincerely,



Jonathan Oppenheimer  
Government Relations Director



*Nez Perce*

**TRIBAL EXECUTIVE COMMITTEE**

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

14 October 2016

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*Via Electronic Mail Only*

**Re: Comments on ITD Proposed Rulemaking for U.S. Highway 12, Docket No. 39-0311-1601**

Dear Mr. Hobdey-Sánchez

The Nez Perce Tribe (Tribe) appreciates your facilitation of comments on the above-reference proposed rulemaking. The Tribe's comments here are abbreviated, however, because the Tribe believes the proposed state rulemaking is premature, in the context of unresolved federal litigation and mediation over multiple federal issues that surround the same underlying issue.

The Tribe opposes the Clearwater and Lochsa River corridor becoming an industrial corridor. The Tribe has repeatedly made this known. This includes its 2013 peaceful protests of megaload traffic and its successful action in the Idaho District Court case of Nez Perce Tribe, et al. v U.S. Forest Service, et al., enjoining megaload traffic on U.S. Highway 12 within the Nez Perce-Clearwater National Forests. The injunction issued by the Court in 2013 remains in place until the U.S. Forest Service completes an impacts study and consults on a government-to-government basis with the Nez Perce Tribe.

The Tribe first notes disappointment that ITD provided it with no prior notice of the proposed rulemaking. The Forest Service, the Tribe, and Idaho Rivers United are engaged in mediation under the Ninth Circuit Court of Appeals' mediation program. It is public, non-confidential information that ITD was invited into that mediation in late 2015. While more cannot publicly



be said, ITD's characterization of that mediation, in its FAQ accompanying the rulemaking, as one in which the mediation parties were or are not interested in pursuing resolution, is simply not accurate.

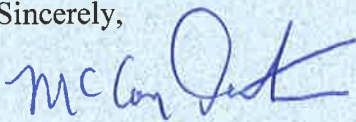
Second, the Tribe notes, as other parties have done in more detail, that ITD's proposed rulemaking rests on at least two mistaken assumptions. First, the fiscal impact of what is apparently an ITD attempt to facilitate new megaload traffic, would not be inconsiderable or insignificant. On the contrary, megaload traffic would have an entirely negative fiscal and economic impact on state and local resources (not to mention tribal). Second, any suggestion that the Idaho District Court injunction has affected historically common or routine oversized traffic is false. That type of industrial traffic has continued unaffected by the litigation and the injunction. Federal litigation over the precise issue of megaload traffic implicates a type of traffic shipment so rare, extreme, and uniformly harmful to the interests of all parties, including the state itself, that it frankly should instead call for a consensus-based agreement to ban such traffic from U.S. Highway 12.


Third, the proposed rulemaking is simply premature. Idaho District Court compliance and/or mutual party consensus on the harmful impacts of megaload traffic, and tribal consultation regarding the same, remain unresolved. This occurs against a backdrop of issues including proper exercise of United States, and particularly U.S. Forest Service, authority under the Property Clause of the U.S. Constitution (Art. IV, Sec. 3), under the National Forest Management Act, under the Wild and Scenic Rivers Act, under express provisions of the (U.S. 12) Highway Easement, under the National Historic Preservation Act, and under 1855 and 1863 Nez Perce Treaty obligations of the United States. For ITD to propose a new state rulemaking in this context and at this time is premature and ineffectual.

The Nez Perce Tribe is committed to protecting the Clearwater and Lochsa River corridor and the multiple layers of extraordinary resources that exist throughout that area – that are required to be protected under multiple federal laws and treaties – and to working with the U.S. Forest Service and other parties of good will toward that end.

Thank you for your courtesies in this matter.

Sincerely,



 Mary Jane Miles  
Chairman



# *Friends of the Clearwater*

PO Box 9241 Moscow, ID 83843

Phone (208) 882-9755

[www.friendsoftheclearwater.org](http://www.friendsoftheclearwater.org)

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October 14, 2016

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Dear Mr. Hobdey-Sanchez,

Enclosed are the written comments from Friends of the Clearwater on the proposed rule governing megaloads from the Idaho Transportation Department (ITD) for U.S. Highway 12 (IDAPA 39.03.11). We are opposed to efforts by ITD to turn Highway 12 into a high and wide industrial corridor, including its use as a travel way for megaload traffic. We also submitted oral comments and submitted a written copy of those comments at the hearing in Lewiston, Idaho on September 28. Attached is a copy of that statement. Rather than repeat those comments, this letter addresses additional concerns.

## **Megaloads Conflict with the Wild and Scenic River Corridors**

The Middle Fork Clearwater and Lochsa Rivers were established in 1968 as Wild and Scenic Rivers under the Wild and Scenic Rivers Act. Highway 12 is an integral part of these wild river corridors. Megaloads negatively affect the recreational use along these corridors by locking up parking spaces, industrialize a natural river by their sheer size and necessary escort vehicles, and may have serious impacts on wildlife and fisheries, especially if there were to be an accident.

## **Megaloads Are Neither Safe Nor Efficient**

In spite of ITD's claims of safety and efficiency, the record of the few megaloads that have traveled on Highway 12 is one of problems and delays. There have been delays blocking traffic for over an hour. One shipment took 16 days. One shipment knocked out power to over one thousand homes and businesses. That is not a good record. The geographical realities of Highway 12, which also contribute to its scenic values, make it one where megaloads are inappropriate. They cannot easily negotiate the narrow and winding road and any problem or accident could be disastrous.

Further, these delays cause real problems for local citizens who use the Highway 12. For example, critical care workers--many of them work 12-hour shifts at local medical facilities--travel Highway 12 to



and from work. They could be delayed because of megaloads. This places an undue burden on them and also jeopardizes essential health care.

### **ITD's FAQ Sheet Is Disingenuous**

ITD's Frequently Asked Question sheet is misleading and reflects poorly on an agency that is employed by and works for Idaho citizens. The sheet claims, "ITD has issued permits for large and/or heavy loads on US-12 for decades." That is misleading because there was nothing that approached the size of the megaloads prior to their arrival in the recent past. Megaloads are no mere over legal or over size loads that routinely travel Highway 12. Rather, they are massive loads that block both lanes of traffic.

To allege in the response to questions 5 "The Nez Perce Tribe and IRU have no apparent motivation to pursue a resolution in the mediation" is either extreme ignorance or a baseless accusation that shows bad faith on the part of ITD. Further this suggests ITD can read the mind of the federal litigants. That is absurd.

The response to question 7 claims:

There is no fiscal impact to the Department. There is a potential fiscal impact to industry for the costs of obtaining ambulance services and possible police escorts when needed. There may be additional costs for industry in regard to efficient lighting that meets current standards, but does not create a safety hazard to the traveling public.

That seems odd given the proposed rule itself states, "ITD shall monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time." Why is additional monitoring not a fiscal cost to ITD? That monitoring would not be required if megaloads were not permitted, therefore it must be a cost to ITD (and Idaho citizens).

Furthermore, the response evades the issue of additional damage caused by loads. We have submitted studies from the University of Idaho to ITD during past megaload proceedings that demonstrate damage to roads from such heavy loads. That issue cannot be ignored.

### **The Proposed Rule**

The rule at 200.04 recognizes the Forest Services role to *regulate* megaloads. However, the entire rulemaking appears to circumvent the Forest Service's authority to regulate megaloads because there is no reference in the rule to gaining Forest Service concurrence

All of this is odd and begs the question as to why now with the proposed rule when discussions are currently taking place? Wouldn't it make more sense to wait for results of those discussions? Issues such as a) criteria for determining what constitutes a megaload—as noted in our other comments, the definitions in the proposed rule were only interim criteria issued by the Forest Service; b) what kind of restrictions and/or prohibitions should be in place for megaloads; and c) any other kinds, shapes or sizes of cargo that may affect the wild and scenic river corridor or treaty rights need to be considered.

## Summary

Megaloads should not be permitted on Highway 12. They negatively affect treaty rights and the Wild and Scenic River corridors. ITD should respect the law, truly recognize the Forest Service's authority to regulate megaloads, live up to its obligations to protect the Wild and Scenic River corridors as per existing agreements, and refuse to issue any permits for megaloads. This rulemaking is a waste of time and should be ended now.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane". The signature is fluid and cursive, with the first name "Gary" and last name "Macfarlane" clearly distinguishable.

Gary Macfarlane



# *Friends of the Clearwater*

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September 28, 2016

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Dear Mr. Hobdey-Sanchez,

Thank you for the opportunity to submit written comments concerning the Idaho Transportation Department's proposed rulemaking for Overlegal Permittee Responsibility & Travel Restrictions Docket No. 39-0311-1601. We have numerous concerns over the proposed rulemaking that are listed below.

## **2013 Ruling by Federal Judge Lynn B. Winmill**

Federal Judge Lynn B. Winmill granted an injunction for the plaintiffs Nez Perce Tribe and Idaho Rivers United in 2013, which ordered the Forest Service to issue a Closure Order for Mile Marker 74-174 on US 12 for Omega Morgan megaloads (extremely big over-sized loads). That closure order is still in effect. It makes no sense for the state transportation department to undergo a rule making process while the closure order still stands.

Federal Judge Lynn B. Winmill's ruled that consultation must occur between the Nez Perce Tribe and the federal government. Consultation has yet to be completed. Further, mediation is currently taking place between plaintiffs and the Federal Government concerning the potential future impacts of megaloads traveling in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. Thus, the Idaho Transportation Department, by proposing a rule for Mile Marker 74-174 in the US 12 corridor, is flaunting the federal court order, putting the cart before the horse, and acting in bad faith.

## **Forest Service**

Federal Judge Lynn B. Winmill's ruling also ordered the Forest Service to maintain the Closure Order for Mile Marker 74-174 on US 12 until the agency completes a corridor review. It is not clear that the "values report" issued by the Forest Service (draft November 2013, latest version March 2015) satisfies Judge Winmill's corridor review order. It is also not clear whether the Forest Service intends the "values report" to be the full and complete corridor review.

The Forest Service developed "interim criteria" in 2013 that would govern whether over-sized shipments would require agency approval to travel through the corridor. The "interim criteria" for oversized loads are:

- Exceeding 16 feet in width or 150 feet in length.

- Requiring longer than 12 hours to travel through the Wild and Scenic corridor and national forest.
- Requiring physical modification of the roadway or adjacent vegetation to facilitate passage beyond normal highway maintenance.

These “interim criteria” are not necessarily going to be the permanent guidelines that govern how the agency makes future decisions regarding megaloading traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. The State of Idaho is undergoing a rule making process, and putting forth guidelines that have, yet, to be ultimately decided by the US Government.

In sum, the Forest Service has the authority and duty to regulate megaloading traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. The proposal by ITD is presumptuous.

### **Public Involvement**

The current rule making process being conducted by the state of Idaho lacks genuine transparency and public involvement. The state has already proposed the rule; Idaho could have engaged the public before the rule-making proposal, like it has in many past instances, if it was truly interested in public dialogue and concern.

The public clearly does not support megaloading traveling through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. This is rehashing what was expressed and decided years ago.

### **Public safety**

The state of Idaho is not demonstrating its commitment to “public safety” and “public convenience” by proposing an administrative rule, which would allow megaloading to travel in a two-lane narrow, winding corridor and block traffic and cause delays. The state of Idaho is not demonstrating its commitment to “public safety” and “public convenience” by proposing an administrative rule that shall require an ambulance to accompany megaloading while traveling in a two-lane narrow and winding corridor. The mere requirement of an ambulance suggests that megaloading traveling on US 12 and in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor will deny the public safe, convenient and normal access to emergency services.

### **Financial Burden**

The state of Idaho is wasting taxpayer dollars by proposing an administrative rule that the public opposes. The potential future permitting of megaloading to travel on Highway 12 and through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridors does, indeed, fiscally impact the Idaho Transportation Department. Permit fees do not recover the expenses incurred by the state when analyzing and issuing such permits. The fiscal impact on the state of Idaho for permitting megaloading to travel on highways in the state goes beyond the costs incurred during the permitting process. It is documented that very heavy loads cause considerable damage, immediately and over the long-term, to highways, roads and bridges.

Also, the potential future permitting of megaloading to travel on Highway 12 and through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridors could fiscally affect tourism and other business uses of the Highway 12. The delays alone could prevent efficient transport of certain goods.

### **Summary**

The Idaho Transportation Department is considering a poorly written rule change that would not change anything. Any rule potentially adopted by the state does not take precedence over the recent federal court order, the government-government consultation currently taking place, and the mediation that is on going. Further, it cannot bypass the duty and authority of the Forest Service to regulate megaloading attempting to travel in the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor.

The claim that the goal of the proposed administrative rule “is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12” is dishonest and disingenuous at best. The proposed administrative rule, rather, shuns public sentiment and the clear overwhelming public opposition to megaloads traveling on U.S. Highway 12.

Sincerely,

Brett Haverstick  
Education & Outreach Director

Elliott L. Moffett

P. O. Box 199

Winchester, ID 83555

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October 14, 2016

Idaho Transportation Department

Attn: Ramon Hobdey-Sanchez

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[Ramon.hobdey-sanchez@itd.idaho.gov](mailto:Ramon.hobdey-sanchez@itd.idaho.gov)

RE: Public comments on proposed rulemaking for oversize shipments on U.S. Highway 12

Dear People:

Please consider the following comments as my opposition to the proposed rule making of the ITD concerning the River Corridor along the highway 12.

I am a member of the Nez Perce Tribe, and the president of the non-profit organization known as the Nimipuu Protecting the Environment (NPtE). I participated in the direct political action when attempts were made to transverse the exterior boundary of the Nez Perce Indian Reservation (NPIR). I participated in the public comment "hearing" which was held at the ITD District 2 Office and provide testimony then on or about September 28, 2016.

Part of my testimony was to convey the public notice from the governing body of the Nez Perce Tribe's opposition to the proposed rulemaking. I oppose for several reasons this rulemaking. Amongst those reasons include the lack of consultation held with the Nez Perce Tribe. The lack of consultation with the Nez Perce Tribe was exactly the type of behavior that lead to the direct political action which included the Tribal Council's opposition and to the filing of the federal court action which resulted in the stoppage of any megaloads traveling through the federal wild and scenic river corridor.

I have lived in and around the NPIR for a majority of my 63 years of life, and have witnessed a steady degradation of the environment in and around the river corridors. This effort by the ITD is another ill-advised notion to make our pristine river corridor into an industrial transportation route. I object to many of the transportation loads which are "regulated" by ITD, because of their potential and very real dangers to the environment, ecology, and biospheres of this area. Toxic loads have no place to risk dumping their loads in or near the Rivers. I know that the River Canyons can be daunting to get massive loads through and if they should dump one of these megaloads, there is no guarantee that a crane could maneuver or even lift one of those megaloads out of the river.

The megaloads are therefore a threat to the enjoyment, spirituality, ecology, and biodiversity of the area in and around the River corridors and therefore must be opposed. The federal government,

through the U. S. Department of Agriculture, Forest Service is currently in court ordered mediation with regard to review and analysis of the proposed use of the River Corridor as an industrial transportation routed for megaloads and Treaty Rights and Responsibilities. This proposed rulemaking is premature as that court ordered mediation has not been completed. The federal court injunction still stands and the State of Idaho's rebuke of this legal process only emphasizes its total disregard for the Rule of Law.

I also oppose any physical modification of the roadway and adjacent vegetation to be counterproductive to the Tribe's and federal government's policies to protect, preserve, and enhance our natural bounty. There are many cultural sites and valuable plant and animal ecosystems which are deserving of our protections and enhancements, and not exploited by companies purely for short-sighted economic justifications.

I oppose making the Clearwater River Middle-Fork and the Lochsa River into an industrial corridor for megaloads and toxic loads. The Nez Perce Tribe and its people negotiated and consummated Treaties for such protections of those natural resources which have contributed to the Nimiipuu having existed in this part of the country for millennia. The Tribe and its people must be consulted and asked for consent which is free and prior to such activities which affect or may impact Indigenous lands, territories, plant and animal life.

Sincerely,



Elliott L. Moffett a.k.a., Et-peh-lat-keh.

Sent by electronic mail-no copy sent by post.

# **Individual Comments**

Submitted public comments on IDAPA 39.03.11; U.S. 12 Administrative Rulemaking  
Comment period 9/7/16-10/14/16

From: Wally Burchak

Date: **Wed. Sep 7, 2016 at 10:40 AM**

Subject: Re: ????: Proposed Administrative Rule 39.03.11 (US-12)

To: Ramon Hobdey-Sanchez

Our biggest complaint with Mega Loads was when they tried to move 2 or 3 loads at same time at different locations. Each time our trucks run into Mega Load they will get held up 15 to 30 min (15 min rule can't apply when turnouts long distance apart). One KBC truck leaves Kooskia loaded for Missoula at 12am, the other truck leaves Kooskia 3am. They will meet mega load on way to Missoula and on way back so they lose anywhere from 30 minutes to 1 hour depending on delays. If they move more than one mega load at a time it becomes multiplier effect. We haul shavings from Kooskia to Missoula, reload with chips in Missoula which are hauled back to CWP in Lewiston. Round trip normally takes about 13 hours so we have one hour to give and still stay under 14 hour rule. We have two trucks that make this run 5 days per week. We also average 3 to 4 lumber trucks per week hauling from Kooskia/Kamiah area into western and eastern Montana using Hwy 12 access. So multiple movements at once can cause our company to miss loads because we run out of hours which was a problem when they tried moving 70 plus mega loads in a short time frame. This affects commerce of companies that use this transportation corridor 365 days per year.

I do not feel the mega loads are a safety hazard because they are moving so slow. One movement in a 150 mile stretch of Hwy 12, we can work around. Multiple movements can cause financial hardships to companies like ours. We are not against mega loads when they are single movements along Hwy 12 corridor. Thank you for keeping me informed.  
Thanks for your help.

Wally

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**From:** nancy berkheiser

**Sent:** **Thursday, September 15, 2016 6:26 PM**

**To:** Ramon Hobdey-Sanchez

**Subject:** Oversize shipments on highway 12

I am writing in regard to ITD's plan to allow oversize shipments on Highway 12. ITD does not have the power to allow these shipments. This should not even be on the table for discussion.



U.S. District Court Judge B. Lynn Winmill took away ITD's power over this corridor. It is under the purvey of the Forest Service and the Nez Perce Tribe.

It is unreasonable to use the highway in this fashion. This narrow stretch with rock walls on one side and a river on the other side is not feasible for oversize loads. The possibility is too high of long-reaching harm to the environment from an accident or overload of the highway.

And at this point, with gasoline prices being their lowest in many years, the use of tar sands gasoline is even more abhorrent.

Have you actually driven along this stretch of the highway? It is breath-taking. This mountain road is scattered with fallen rocks as well as being a path for deer and moose and wild cats. No one who has seen this area with their own eyes would dream of using it for oversize shipments. It is definitely NOT like the roads in the wide open highways of flat southern Idaho.

Thank you for considering my position.

Sincerely,  
N. Berkheiser, M.D.

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From: Diane Nousanen  
Sent: **Friday, September 23, 2016 2:59 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Draft rule 39.03.11

The Lochsa river corridor is identified as wild and scenic. Running oversized loads through it is antithetical to that designation. Other routes should be used. Oversized loads should not be permitted under any circumstance.

Diane Nousane  
Hamilton, MT

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From: didukey  
Sent: **Saturday, September 24, 2016 2:04 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Idaho

It is important for the public to voice OPPOSITION to a “rule making process” that has little transparency and has no jurisdiction over a federal court’s decision. **I oppose as well as my friends & family do too.**

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From: Natalie Chavez  
Sent: **Monday, September 26, 2016 4:29 PM**

To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

In a time where the cogs of government work can turn slowly, I appreciate that the Idaho Transportation Department has taken steps to include oversize vehicles and nonreducible loads in its rules.

However, the Forest Service, Nez Perce Tribe and other interested parties have not yet finalized the USFS's part in the process.

So, if I understand the timeline, it seems that ITD has jumped the gun and wants to codify criteria that haven't yet been finalized.

I strongly suggest that you drop the rulemaking for now and instead focus on the agency's work to ensure public safety, recreational access, and environmental protections.

These values could all be harmed by vehicles of excessive length, long load movement times, and physical modifications to our roadways and vegetation.

I travel between Boise and Missoula virtually every month and understand the pressure on the Highway 12 corridor. And I also understand how trips along this corridor can easily be compromised.

Thank you

Natalie Chavez  
Boise, ID

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From: Theresa Burkes  
Sent: **Monday, September 26, 2016 4:38 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Theresa Burkes  
Eagle, ID

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From: Rialin Flores  
Sent: **Monday, September 26, 2016 4:41 PM**

To: Ramon Hobdey-Sanchez  
Subject: Hwy 12 megaloads-- interesting timing.

Dear Mr. Hobdey-Sánchez;

I respectfully ask that you reconsider the proposed rulemaking process regarding megaloads on Hwy 12. The U.S. Forest Service has not yet finalized criteria defining megaloads.

Instead of working to promote oversized shipments on Highway 12, the Idaho Transportation Department should instead consider limitations on the hauling of toxic materials along the route.

Rialin Flores  
Boise, ID

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From: P A Osborn  
Sent: **Monday, September 26, 2016 4:43 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. In 2013, a federal district court judge ruled that the U.S. Forest Service had jurisdiction over the land under Highway 12. Also, the potential harm of these megaloads to public safety, recreation and wild and scenic rivers needed to be studied further.

Since that time, the Forest Service, Nez Perce Tribe and other interests have been negotiating to develop criteria for megaloads and then develop rules for the shipment of megaloads along the Highway 12 corridor.

It's too soon for ITD to be developing rules. ITD should drop its rulemaking and focus instead on ensuring public safety, recreational access and environmental protection along the Highway 12 corridor.

P A Osborn  
Boise, ID

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From: Jim McCracken  
Sent: **Monday, September 26, 2016 5:19 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

IDT shouldn't be promoting the use of highway 12 for commercial through-traffic. The previous attempt to accomodate megaloads was clearly a mistake and demonstrated the unsuitibility of this route for oversized vehicles.

The road is narrow and windy, with few pullouts, and the weather creates hazardous conditions much of the year. The route is well suited however to recreational use and local commerce.

The IDT should focus on developing highway 95 as the major north-south, multi-use corridor through Idaho.

Sincerely,

Jim McCracken  
Lewiston, ID

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From: Stephen Lockwood  
Sent: **Monday, September 26, 2016 5:25 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads, so it is premature for ITD to draft such a rule. It would, however, be appropriate to limit toxic material on this route.

Stephen Lockwood  
Sandpoint, ID

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From: Kathryn Railsback  
Sent: **Monday, September 26, 2016 5:46 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

I am writing to request that the ITD put off the proposed rulemaking on permits for industrial megaloads. Instead, the agency should focus on ensuring public safety, recreational access and environmental protection along the Lochsa and Middle Fork Clearwater Rivers and wait for the ongoing negotiations between the Forest Service and the Nez Perce tribe and other parties to reach fruition.

Thank you.  
Kathryn Railsback  
Boise, ID

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From: Peter Cizmich  
Sent: **Monday, September 26, 2016 6:13 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;  
Why is the ITD considering rules for megaloads when the U.S. Forest Service has not yet finalized criteria defining megaloads? Besides, what possible benefit could Idaho receive from megaloads that are bound for the tar sands of Alberta? The risk to one of Idaho's gems is not worth any possible economic gains from road fees. If Alberta needs these megaloads, let them find a way through Canada. Sending them through Idaho is a terrible idea and should be nipped in the bud.

Peter Cizmich  
Meridian, ID

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From: BOB MARSH  
Sent: **Monday, September 26, 2016 6:19 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. It is much too early. It is your job to protect this environment and our roads. Do not even think of letting those people using those roads.

They need to build the equipment in the state where they will use it and not truck it through pristine areas!!

BOB MARSH  
Boise, ID

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From: Pat Monger  
Sent: **Monday, September 26, 2016 6:25 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. ITD should focus on public safety, recreational access and environmental protection in stead of on permits for megaloads. The ITD cannot override the Forest Service's responsibilities. Megaloads are on

hold, and ITD's proposal should be as well. The Forest Service has only developed interim criteria to define a megaload, so the ITD's rulemaking is premature. Please stop this action immediately.

Thank you.

Pat Monger  
Moscow, ID

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From: Ann Ford  
Sent: **Monday, September 26, 2016 8:25 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads, and the plans by ITD to make rules about megaloads is presumptive, and disrespectful to the groups who have successfully blocked megaload access on Highway 12.

The ITD ought to concern itself with public safety, not with premature promises to continue dangerous and illegal freight on Highway 12.

Thank you,

Ann Ford  
Boise, ID

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From: Dana Kehr  
Sent: **Monday, September 26, 2016 11:15 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Until that work is completed, and rules regarding such transport are in place, mega loads present an unsafe hazard to civilians and to our natural resources.

In addition, it's my understanding that jurisdiction still resides with the U. S. Forest Service, not with ITD.

Dana Kehr

Boise, ID

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From: Donald Bosley  
Sent: **Tuesday, September 27, 2016 12:17 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Donald Bosley  
Boise, ID

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From: Bob Swandby  
Sent: **Tuesday, September 27, 2016 6:48 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. Please focus on the potential environmental damage, safety hazards and effect on recreational access that megaloads would have on this beautiful and special stretch of highway.

Bob Swandby  
Boise, ID

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From: Alumni - jmatthews  
Sent: **Tuesday, September 27, 2016 9:58 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Change to Oversize load rules

Mr. Sanchez,

I am formally stating my opposition to any changes to the ITD rules that will allow for oversize loads on Highway 12. I have been involved in this issue a number of years particularly when the Exxon Mobil and other Oil Companies were attempting to ship equipment up the Highway 12 corridor. I am opposed to changes that would seemingly allow these types of shipments through or Treaty area and reservation.

Thanks,  
Julian Matthews  
Pullman, WA

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From: Roy Heberger  
Sent: **Tuesday, September 27, 2016 10:40 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Please put a hold on State-level rule making on the subject of megaloads on Highway 12.

Aside from being out of order on the timing of the rule making, it seems there is an authority question that would ultimately put the action before a judge. That would be a complete waste of tax dollars as a judge has already ruled that it is the Forest Service that has the authority on all Highway 12 matters

Thank you for considering these brief comments.

Roy Heberger  
Boise, ID

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From: Gary Hanes  
Sent: **Tuesday, September 27, 2016 10:48 AM**  
To: Ramon Hobdey-Sanchez  
Subject: ITD draft rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has the ultimate jurisdiction for approving megaloads traveling on Highway 12. Yet, the USFS has not finalized its consultations with the Nez Perce Tribe or developed criteria for approving megaloads that would be subject to public comment. Therefore, it is premature for ITD to draft a rule at this time.

ITD has been a welcoming mat for the megaload shippers and gleefully issued its permits without USFS or Nez Perce Tribal approvals. There are alternate routes available that do not have the negative impact these megaloads would have in the Highway 12 corridor.

I was born and raised in Orofino and have an enduring connection to the area through family, recreating in the area, and earlier employment. Please abandon this folly. If that is not possible, at least delay the issuance of an ITD rule until the work between the USFS and the Nez Perce Tribe is complete.



Thank you.

Gary Hanes  
Boise, ID

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From: Jean Carroll  
Sent: **Tuesday, September 27, 2016 11:41 AM #1**  
To: Ramon Hobdey-Sanchez  
Subject: Re; Mega loads on US 12

US Highway 12 is a Wild and Scenic Highway and that means it is not to be industrialized. Especially for the shipment of anything that helps the oil industry. That industry is helping intensify global warming. We need to start discouraging oil production, not encourage it.

Sincerely,

Jean Carroll  
Kooskia, ID

From: Jean Carroll  
Sent: **Tuesday, September 27, 2016 7:55 PM #2**  
To: Ramon Hobdey-Sanchez  
Subject: Re: Re; Mega loads on US 12

Thank you for the swift reply. The portion of the highway I am referring to is the Wild and Scenic portion, which encompasses mileposts 74-174. Don't make new rules for that portion of the highway, not only because it is Wild and Scenic, but also it is a dangerous highway for Overlegal use, plus it should not be made an industrial corridor.

Sincerely,

Jean Carroll  
Kooskia, ID

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From: Amber Hanes-Miller  
Sent: **Tuesday, September 27, 2016 12:09 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

I feel it is premature to define rules for mega loads on Scenic Highway 12 until we know 100% of the risks involved.

At this time no one knows the potential harm to the integrity of our roadway infrastructure, there is no way to know if these massively huge loads will erode the ground beneath leading to damage of one of the few designated scenic byways of America. What can the potential other costs to the environment be? Can it be mitigated? Does it threaten the health or livelihood of those who live along Highway 12?

If we open the byway to mega loads it opens the floodgates so all sorts of other wants and needs; and for what? In the name of money for the tar sands industry? An industry that creates 5 gallons of sludge for every one gallon of oil? When is Idaho going to smarten up and look ahead? I'd hate to be one of the last states in the last first world country that "gets" modern, clean energy. What an embarrassment.

Amber Hanes-Miller  
Orofino, ID

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From: Carole Nemnich  
Sent: **Tuesday, September 27, 2016 1:26 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Please reconsider timing or delay rulemaking on Hwy 12 "megaloads"

Dear Mr. Hobdey-Sánchez;

As a citizen of our great state, and highway user, I am concerned that ITD's proposed rulemaking timeline for 'megaloads' on Highway 12 in northern Idaho is premature. The policy process works best when all parties work to a common timeline to complete important policy work.

Since the Forest Service has not yet finalized criteria defining megaloads (and where a common definition would be a good starting point), it is prudent to reschedule your action/rule-making until this important step is complete.

I would like to remind you that this Highway 12 corridor is environmentally sensitive (the river/riparian area adjacent), has tremendous scenic value (a boon to the local tourist economy), and has many existing public safety issues (have you driven it in winter?).

Please don't rush to make a hasty decision that does not honor the entire process for making good public policy. The public will not blame ITD for taking a prudent, rational approach. In fact, you may save many taxpayer dollars in the future by taking a slow and coordinated approach that includes other constituencies.

Thank you for the work you do on behalf of all of Idaho's citizens.

Best regards,  
Carole Nemnich  
Boise, ID

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From: Diana Auladell  
Sent: **Tuesday, September 27, 2016 9:12 AM #1**  
To: Ramon Hobdey-Sanchez  
Subject: hwy 12

Stay off of 12! It's not ITD's to sell.

Diana Armstrong  
Moscow, Idaho

From: Diana Auladell  
Sent: **Tuesday, September 27, 2016 5:32 PM #2**  
To: Ramon Hobdey-Sanchez  
Subject: no megaloads on 12

ITD:

I pick up the trash on highway 12 from milepost marker 141 to 144 in honor of my parents, Ruth and Ellis Armstrong. Thus highway 12 is not just another pretty road to me. My parents taught me to cherish nature: the original peoples, native trees and plants, animals and fish and birds, as well as clean air, clean water, and healthy soil. And cherishing, marveling, appreciating, involves protecting and fighting. I sat down in front of the megaloads in Moscow and I will have no trouble sitting down in front of them on highway 12 if they start again. Normal-sized trucks carrying freight is one thing, megaloads, and what they carry, what they mean, who they work for, are completely different.

Keep them off "my" highway.

Diana Armstrong  
Moscow, Idaho

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From: Alia Riggers  
Sent: **Tuesday, September 27, 2016 8:21 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Megaloads

I apologize for not using the form provided but I was unable to open it in order to type a comment. I have been reading for a few years about the megaloads and the aversion to allowing them to pass through the Wild and Scenic Corridor in route to the Alberta Tar Sand fields. The unified Great State of Idaho built these roads for commerce, trade, and recreational access. Many are concerned about the natural resources and that the Wild and Scenic should mean something. If that is the case, Wild and Scenic loses its value when every vehicle traveling through transports toxic material and noxious weeds. The latter is obvious along the corridor and

these noxious weeds are becoming an epidemic while spreading to the uplands. Thus the decline in the natural resources. The megaloads are not the concern, if public is concerned they need to focus on these issues that are affecting the long term ecological systems for future generations rather than focusing on a vehicle that transports equipment over a short term and the impact it has on the environment. In reference to the Nezperce Tribes comment in today's, Sept. 27th, Lewiston Morning Tribune, I don't see how this affects future generations.

Sincerely,

Alia Riggers  
Winchester, ID

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From: Joanie Fauci  
Sent: **Wednesday, September 28, 2016 9:15 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. Until then and as long as possible afterwards, ITD should not allow any mega loads along this wild and scenic corridor.

There have been many studies and magazine articles of late stating how much money Idaho makes from tourism. We are frequently rated as a great place to live, raise a family, start a business. These items bring lots of economic growth to the state. Allowing megaloads to take over our beautiful places and turn them into industrial highways does not bring economic growth any longer. That is old school thinking. Clean, healthy business is what people moving to Idaho want, not ugly, cloud spewing trucks along wild and scenic river corridors.

Rather than making rules that might allow this industry to proceed, ITD could make some rules that would prevent it from being an economic option. They should just build the megaloads at the location they need them, that would provide economic opportunity there and prevent the degradation of the roadways potentially used in their transport. ITD could create some rules of nothing bigger than x weight allowed on ANY road, nothing bigger than x weight allowed on two lane roads, nothing bigger than a single lane width allowed on two lane roads, etc. These types of rules are what ITD should be setting in place to preserve the beauty of Idaho. If we lose that beauty it will be very hard to get it back.

Please don't create any rules at this time. But, if you must, please make them rules that protect this great state of Idaho in all its beauty.

Thank you for your time,  
Joanie Fauci  
Boise, ID

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From: Elizabeth Vavricka  
Sent: **Wednesday, September 28, 2016 9:39 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. Please do not assume that the interim measures are permanent. Please wait to draft a rule until the ruling from the federal government has been made.

Elizabeth Vavricka  
Boise, ID

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From: Bill (Excel Transport)  
Sent: **Tuesday, September 27, 2016 9:50 AM**  
To: D2 DE Dave Kuisti  
Subject: Megaloads

RE: Megaloads

I am in favor of re-opening Highway 12 to “Megaloads” and support the Port of Lewiston’s efforts in this regard.

I urge you, respectfully, to contact the US Forest Service and ask them to push forward immediately to re-open highway 12 from Lewiston to Montana for the transportation of so called "Megaloads". It's been proven to be logistically, safely, and ecologically traversed. It provides jobs and revenue to the area and the Forest Service has had adequate time for review.

Sincerely,

William C. Stellmon

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From: Natalie Magnus  
Sent: **Wednesday, September 28, 2016 1:50 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Keep megaloads out of the wild scenic corridor

Hello,

I am not able to be at the public forum tonight, and I will continue to write in until October 14th to express the need to keep megaloads off of highway 12.

The injunction issued by Judge Winmill in 2013 remains in place until the U.S. Forest Service completes an impact study and consults on a government-to-government basis with the Nez Perce Tribe. The environmental, economical, and cultural impacts already show and will continue to show that megaloads should not be on US Highway 12. I cannot express this enough. Do not let megaloads pass through the Nez Perce-Clearwater National Forest. This is a mistake. I urge anyone who is listening and has control to do the right thing and oppose these megaloads.

Natalie Magnus

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From: Judy Oatman  
Sent: **Wednesday, September 28, 2016 9:47 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Mega load on US 12

I am highly opposed to the megaloads on US 12 for many reasons. They do not belong on the Wild and Scenic Corridor. Period. It is highly abused by trucks as it is. Many trucks travel the Highway daily from Montana through the river corridor. Wrecks are occurring at a high rate. Causing irreparable harm to fish and ecosystem.

In addition the ITD is completely neglecting the fact that the over sized loads will go directly through the Nez Perce lands...protected by many Treaties. That are not to be abrogated by the State of Idaho.

The Nez Perce have repeatedly said no to these megaloads traveling through our lands. Esp through the Wild and Scenic Lochsa River Corridor.

Attempts to circumvent laws and rules have taken place since the federal court ruled against Omega Morgan. ITD has allowed the oversized loads to travel late at night and early morning and we have documentation via recoding and pictures.

During the last Megaloads resistance the State of Idaho hired State police, as well as other police forces to bully and intimidate tribal members to the point of irreparable harm. Women and children were harmed...and even arrested by these hired goons. To this day many tribal members still feel the repercussions from stopping the megaloads transport along with the monies they would accumulate.

There are many valid and serious reasons to not allow these loads to go through the Nez Perce Lands. Protected by Treaty.

We will resist the loads. They are thought to be the direct cause of rocks coming down the hill and killing two tribal members going fishing. Do the research. Near Cherry Lane Bridge.

I am a Nez Perce. 182U002224. My name is Judy Oatman and I say no to the oversized loads.

From: Lynne Haagensen  
Sent: **Wednesday, September 28, 2016 10:00 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

ITD should not be jumping ahead of input from the Forest Service.

The scenic and recreational value of this beautiful byway should be respected. Every effort should be made to prevent its contamination with toxic materials.

Thank you for your attention.

Lynne Haagensen  
Troy, ID

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From: Skip Brandt  
Sent: **Thursday, September 29, 2016 11:05 AM**  
To: Ramon Hobdey-Sanchez  
Subject: In support of proposed rulemaking for IDAPA 39.03.11

I stand in full support of the proposed rulemaking for IDAPA 39.03.11 .

The modifications being made to this rule address truck permitting for non-reducible, oversized loads traveling on U.S. 12, between milepost 74 and milepost 174, all of which are located totally in Idaho County.

The Idaho County Commission supports all trucking in and through our County.

Thank you for your time,

Skip Brandt  
Idaho County Commissioner

Work: Grangeville, ID      Home: Kooskia, ID

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From: john holup  
Sent: **Thursday, September 29, 2016 4:26 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

No megaloads on 12, ever.

John Holup  
Moscow, ID

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From: Kitty  
Sent: **Thursday, September 29, 2016 7:13 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Mega loads hwy 12

Really? After everything you have done and at every turn it was stifled. Wild & Scenic (get it?) it barely has room for 18 wheelers and when they wreck their diesel and payloads trash the river! Tell your boss Butch to stop the madness!

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From: Greg Johnson  
Sent: **Friday, September 30, 2016 9:42 AM**  
To: Ramon Hobdey-Sanchez  
Subject: IDAPA 39.03.11

I support the proposed rulemaking for IDAPA 39.03.11. The modifications being made to this rule address truck permitting for non-reducible, oversized loads traveling on Highway 12, between milepost 74 and 174. I support the trucking industry and the jobs it creates.

Greg Johnson  
Lewis County Commissioner

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From: Erin Zaleski  
Sent: **Friday, September 30, 2016 10:44 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

You should be focusing on ensuring public safety, recreational access and environmental protection along the Highway 12 corridor.

Erin Zaleski  
Boise, ID

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From: rick & linda burnett  
Sent: **Friday, September 30, 2016 1:59 PM**  
To: Ramon Hobdey-Sanchez  
Subject: proposed docket no. 39-0311-1601

Greetings!

Please eliminate from the proposed docket no. 39-0311-1601 the following items;

o4.a.i. and ii. and iii

This section of US 12 from milepost 74 to 174 is a Scenic Byway! Its purpose is not a mega shipping lane. Once it has been scarred; it cannot go back to its original landscape and ecosystem!

Please use your resources for future planning such as adding lanes on Interstate roadways and widening the exit ramps to accommodate more future traffic as the result of population growth along the interstate corridors. Leave the mega loads out of the forest!

Linda Burnett  
Lewiston, ID

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From: Jesse Feathers  
Sent: **Sunday, October 02, 2016 4:10 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. So there is no reason for your agency to proceed with rulemaking regarding megaloads unless the goal is too stir up a political, polarizing pot while ignoring the opportunity to develop consensus that respects tribal treaty rights, recreation, scenic and historical value, wilderness, wildlife, and property owners like myself. I own a ranch along Highway 12 and do not want megaloads proceeding along this route, especially when they are destined for tar sand oil fields that are also very controversial.

Premature rulemaking has no chance of standing up in court where it has already been determined that the Forest Service has jurisdiction. Your best policy would be to exercise discretion rather than wasting tax payer money pursuing a lost cause that was disrespectful and mean-spirited to begin with. Megaloads are not about helping Idaho's economy. They are about big oil and mega profits for people who don't live in Idaho and care little for our well-being.

Thanks for allowing the public to comment!

Sincerely,

Jesse Feathers  
Spalding, Idaho

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From: Carol Marsh  
Sent: **Monday, October 03, 2016 11:25 AM**  
To: Ramon Hobdey-Sanchez  
Subject: No megaloads on Highway 12!

Megaloads do not belong on this designed Wild and Scenic Highway. Last time this happened, trees were trimmed, and widening of the highway was proposed to accommodate these monster trucks. The route is narrow, full of sharp curves, and entirely inappropriate for these giant trucks. The route includes an Indian Reservation, and the Indians have made it abundantly clear they do not give permission. It is finally time for the United States to stop violating Indian rights, and to respect are shrinking open lands and rivers.

Carol Marsh  
Missoula, MT

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From: ANTHONY SPILLANE  
Sent: **Monday, October 03, 2016 12:25 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. I request that the agency drop its rulemaking and focus instead on ensuring public safety, recreational access and environmental protection along the Highway 12 corridor.

ANTHONY SPILLANE  
BOISE, ID

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From: korgya  
Sent: **Monday, October 03, 2016 3:07 PM**  
To: Ramon Hobdey-Sanchez  
Subject: FW: September news roundup: salmon comments needed, flotilla recap, Highway 12 news and more

Hello Mr Ramon Hobdey-Sanchez and the IDT,

I object to the secretive process taken to “hammer” out a rule for megaloads on

Scenic Byway Rt. 12.

The current rule-making process being conducted by the state of Idaho and Idaho Transportation Department lacks genuine transparency and public involvement. The state has already proposed the rule.

Idaho could have engaged the public before the rule-making proposal if it was truly interested in public dialogue and concern.

The public does not support the permitting of non-reducible oversized megaloads on Highway 12 or within the Wild and Scenic corridor. This is rehashing what has already been decided.

Ergo, Q.E.D.

Regards,  
Joanna Kirkpatrick, PhD

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From: Dave Daniels  
Telephone: **Monday, October 03, 2016 3:40 PM**  
To: Ramon Hobdey-Sanchez  
Subject: US 12 Comments

- In favor of the proposed rule and opening the corridor up to commerce
- Regularly travels the highway and has his entire life
- Has not seen a negative impact on the roadway

Dave Daniels  
Weippe, ID

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From: Deborah Harsh  
Sent: **Wednesday, October 05, 2016 4:46 PM**  
To: Ramon Hobdey-Sanchez  
Subject: mega loads

I believe that the new guidelines for mega loads on Highway 12 are inappropriate to a democratic society that honors its commitment to its indigenous peoples. It is also not wise to base a society on such poisons especially as the companies involved do not take care keep from spills that pollute our precious environment.

Deborah Harsh

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From: vgw  
Sent: **Thursday, October 06, 2016 5:44 PM**

To: Ramon Hobdey-Sanchez  
Subject: Comments on proposed Rule IDAPA 39.03.11

Comments on proposed Rule IDAPA 39.03.11-

Since there is legal mediation currently pending regarding the shipment of oversize loads along the US Hwy 12 Scenic corridor, it seems like a waste of time and a waste of taxpayer dollars for ITD to propose new rules for those types of shipments at this time. If the goal of the newly proposed rule is to address public concerns, I would say that from what I have seen, it has failed.

I am strongly opposed to this action.

V. Garcia  
Kooskia, ID

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From: Noel Jensen  
Sent: **Thursday, October 06, 2016 10:57 PM**  
To: Ramon Hobdey-Sanchez  
Subject: US 12 Rule making comment

To Whom It May Concern:

As a native Idahoan I urge the Idaho Transportation Department not to permit oversized trucks and loads to travel on Highway 12. This area is a Wild and Scenic River Corridor that is a treasure and should be treated as such. I have personally spent a lot of time recreating and enjoying this corridor and would hate for this place to be ruined by further modifications for these oversized roads. Even when rules are made to try and lessen the impacts of the oversized loads, it has negative impacts.

If an accident were to occur with one of these loads it could have major detrimental effects on this beautiful place. This is a road where many accidents happen and on a narrow twisting road like this it's not reasonable to move these giant loads. It seems impractical and irrational to ever have allowed such loads on this type of road.

As a tax paying Idaho citizen I will be heartbroken if these permits and loads are allowed to continue on Highway 12. I will no longer go there to recreate to this place I've been going since I was a little girl. This is where I caught my first native Westslope Cutthroat and wher i experienced my forst natural hotspring. This is the place I realized how special Idaho is and how I want to live here forever. A place I have spent many special occasions with my friends and loved ones including weddings, camping trips, momentous birthday celebrations and many family gatherings. Also a place I have seen abundant wildlife including turkeys, deer, moose, bear, salmon spawning, osprey, kingfisher, and Western Tanagers. I would hate to lose this special place to widened roads, construction, increased traffic, truck fumes, police escorts and potential disastrous accidents. Please make the right choice and do not permit any further

oversized loads on Highway 12. The potential for lost recreation dollars and disastrous accidents are too high of a price for this wonderful place.

Thank you for your time.

Noel Jensen  
Hailey, Idaho

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From: Ed and Gwen Bloedel  
Sent: **Friday, October 07, 2016 11:56 AM**  
To: Ramon Hobdey-Sanchez; 'Borg Hendrickson'  
Subject: Lochsa River corridor

For heavens sake, stop trying to turn this beautiful Wild and Scenic River corridor into a Massive use Industrial Travel Corridor!! Please listen to the majority of your Idaho and National citizens and knock off writing rules to destroy it.

ED Bloedel

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From: James Flocchini  
Sent: **Friday, October 07, 2016 2:29 PM**  
To: Ramon Hobdey-Sanchez  
Subject: (IDAPA 39.03.11)

To whom it may concern:

I am writing to voice my concern and opposition to ITD new proposed rule for mega-load transport through Idaho's Wild & Scenic Corridor.

I am opposed for the following points:

1. As ITD knows, plaintiffs and defendants in a "megaload" legal case are engaged in *ongoing* mediation regarding oversize non-reducible shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. That mediation has not yet reached resolution, which makes ITD's current ADAPA 39.03.11 rule-making process inappropriate, unnecessary, and ridiculous.

2. ITD indicates that the new rule's "goal is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12."

A. Since ITD has not in the rule spelled out the concerns of the federal litigants, the public can not determine which "concerns" are being addressed, nor evaluate how or how well ITD is addressing those concerns. ITD must delineate those concerns in the rule and detail how ITD is addressing them, and *then* solicit public input.

B. As per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court, not in the hands of ITD. That is, ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply not permit such loads.

C. The broader public represented by the federal case plaintiffs oppose all permitting of oversize, non-reducible "megaload" shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since 2010, that opposition has been clearly, loudly expressed. ITD knows, therefore, that this proposed rule is, in total, opposed by a multitude of citizens.

3. In its FAQs for Rule ADAPA 39.03.11, ITD states that "there is no fiscal impact to the Department" when it comes to such shipments...". Were ITD to disclose the full costs of those few megaload shipments that have traveled U.S. 12 – from the onset of applications to ship, through the permitting and oversight process, and the actual shipment – the public would see that there was a fiscal impact to ITD. ITD should reveal those costs to the public.

4. In the new rule, ITD identifies "interim" USFS "criteria" – regarding dimensions, hours of travel, and roadway/vegetation modifications. ITD can not off-handedly assume that "interim" equals *set in stone*. These criteria, as interim, can not be used by ITD to "resolve" the megaload matter. For this reason alone, ITD should realize the inappropriateness of its proposed rule and abandon this rule-making process.

Thank you very much for your time.

James Flocchini  
Kooskia, Idaho

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From: John  
Sent: **Friday, October 07, 2016 2:37 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Rule IDAPA 39.03.11...

As you read, maybe, the following statements. I agree that this proposed legislation is being shoved through without any thought of the effects it will have on the local environment. I wish you would do your job with more input from other sources before acting.

Thanks in advance.  
Sincerely,

John Canavan

1. As ITD knows, plaintiffs and defendants in a "megaload" legal case are engaged in *ongoing* mediation regarding oversize non-reducible shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. That mediation has not yet reached resolution, which makes ITD's current ADAPA 39.03.11 rule-making process inappropriate, unnecessary, and ridiculous.

2. ITD indicates that the new rule's "goal is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12."

A. Since ITD has not in the rule spelled out the concerns of the federal litigants, the public can not determine which "concerns" are being addressed, nor evaluate how or how well ITD is addressing those concerns. ITD must delineate those concerns in the rule and detail how ITD is addressing them, and *then* solicit public input.

B. As per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court, not in the hands of ITD. That is, ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply not permit such loads.

C. The broader public represented by the federal case plaintiffs oppose all permitting of oversize, non-reducible "megaload" shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since 2010, that opposition has been clearly, loudly expressed. ITD knows, therefore, that this proposed rule is, in total, opposed by a multitude of citizens.

3. In its FAQs for Rule ADAPA 39.03.11, ITD states that "there is no fiscal impact to the Department" when it comes to such shipments...". Were ITD to disclose the full costs of those few megaload shipments that have traveled U.S. 12 – from the onset of applications to ship, through the permitting and oversight process, and the actual shipment – the public would see that there was a fiscal impact to ITD. ITD should reveal those costs to the public.

4. In the new rule, ITD identifies "interim" USFS "criteria" – regarding dimensions, hours of travel, and roadway/vegetation modifications. ITD can not off-handedly assume that "interim" equals *set in stone*. These criteria, as interim, can not be used by ITD to "resolve" the megaload matter. For this reason alone, ITD should realize the inappropriateness of its proposed rule and abandon this rule-making process.

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From: Marsha Schoeffler

Sent: **Friday, October 07, 2016 4:41 PM**

To: Ramon Hobdey-Sanchez

Subject: comment on proposed Rule (IDAPA 39.03.11)

I am really angry that ITD is trying to do an end run around the ongoing mediation of plaintiffs and defendants in the “megaload” legal case. Since the mediation has not yet reached resolution this rule-making process you are engaged in is inappropriate, unnecessary and inflammatory.

Be assured I will be keeping my eye on you. I am a concerned Idaho citizen who does not want to see one of our nation’s premier Wild and Scenic corridors industrialized.

Marsha Schoeffler  
Kendrick, ID

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From: Corrie Ellis  
Sent: **Friday, October 07, 2016 5:23 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Please reject IDAPA 39.03.11

Dear Ramon Hobdey-Sanchez,

As a person raised in Idaho who hopes to live there upon completing my degree, please reject ITD’s proposed Rule IDAPA 39.03.11. The rule goes against the spirit of the Wild and Scenic Rivers Act, supports the industrialization of one of our nation’s premier Wild & Scenic corridors and is inappropriate and unnecessary in light of the fact that there is ongoing mediation regarding oversized non-reducible shipments throughout the Lochs-Clearwater Wild and Scenic U.S. 12 Corridor. ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply not permit such loads.

Thank you,  
Corrie

Corrie Ellis Grosse  
Doctoral Candidate  
Department of Sociology  
University of California, Santa Barbara

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From: Jan Blakslee  
Sent: **Friday, October 07, 2016 9:49 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Scenic corridor

Let's face it the whole authorization for allowing any form of megaloads has become a politicized football with exaggerated arguments on on both sides of the issue. The bottom line is that megaloads severely compromise the quality of a beautiful wild and scenic corridor.....one of



the last great places. There are alternative routes available. Why not use them? Commercial traffic on the Columbia and into Lewiston has dropped dramatically for lack of demand.....just accept it and save taxpayer \$\$\$. Seems we are all caught up in increasingly urbane and futile arguments fueled by financial interests.....all of which obfuscate the real issue of preserving a special river and the delights it provides for so many.

Jan H. Blakslee

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From: Diane Baumgart  
Sent: **Monday, October 10, 2016 8:07 AM**  
To: Ramon Hobdey-Sanchez; Diane Baumgart  
Subject: ITD hearing on mega loads transport

To whom it may concern,

I am writing regarding the ITD public input on transport of oversized vehicles on Highway 12 and the wild and scenic roadway I do not support the permitting of non-reducible oversized (megaloads) on Highway 12 or within the Wild and Scenic River Corridor. This is rehashing what has already been decided by the ruling of a federal judge on September 13, 2013. to rehash this already decided issue is a waste of taxpayers' money and time.

In addition, the "interim rules" put forth by the forest service prior to September 13 are just that, interim or temporary. This is not a permanent set of rules for future planning or rule making.

Finally, the State of Idaho does have the authority to conduct rule making for matters under its jurisdiction, this is not an area under their jurisdiction. In other words, if Idaho chooses to adopt this rule following public involvement, it does not take precedence over the results from the on-going government-to-government consultation, and the on-going discussions with plaintiffs Idaho Rivers United. The Nez Perce tribe has considerable interest in this area and has resisted these transport hauls. There is little transparency or oversight over the "interim rules" and no further option for oversight.

The state of Idaho is wasting taxpayer dollars by drafting and possibly creating a rule for a situation over which it has no jurisdiction.

Yours sincerely,

Diane Baumgart

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From: debra4stuff@gmail.com  
Sent: **Monday, October 10, 2016 10:28 AM**  
To: Ramon Hobdey-Sanchez  
Subject: ITD U.S.12 Rulemaking

Dear Mr. Hobdey:

Please accept these comments on the above proposed rule. I have been a long term ID resident of 30 years, but recently relocated to Washington. I continue to own property in Idaho, and am vitally interested in having the Snake River restored to a free flowing state to increase salmon and orca recovery, and to revitalize the area's economy. I oppose any efforts by ITD to allow megaloads in the Lochsa Wild & Scenic corridor, which would require maintaining the obsolescent Snake River shipping corridor.

1. As ITD knows, plaintiffs and defendants in a "megaload" legal case are engaged in ongoing mediation regarding oversize non-reducible shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. That mediation has not yet reached resolution, which makes ITD's current ADAPA 39.03.11 rule-making process inappropriate, unnecessary, and ridiculous.

2. ITD indicates that the new rule's "goal is to address the concerns previously expressed by the federal litigants, while allowing oversize, non-reducible loads to once again travel on U.S. Highway 12."

A. Since ITD has not in the rule spelled out the concerns of the federal litigants, the public can not determine which "concerns" are being addressed, nor evaluate how or how well ITD is addressing those concerns. ITD must delineate those concerns in the rule and detail how ITD is addressing them, and then solicit public input.

B. As per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court, not in the hands of ITD. That is, ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply not permit such loads.

C. The broader public represented by the federal case plaintiffs oppose all permitting of oversize, non-reducible "megaload" shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since 2010, that opposition has been clearly, loudly expressed. ITD knows, therefore, that this proposed rule is, in total, opposed by a multitude of citizens.

3. In its FAQs for Rule ADAPA 39.03.11, ITD states that "there is no fiscal impact to the Department" when it comes to such shipments...". Were ITD to disclose the full costs of those few megaload shipments that have traveled U.S. 12 – from the onset of applications to ship, through the permitting and oversight process, and the actual shipment – the public would see that there was a fiscal impact to ITD. ITD should reveal those costs to the public.

4. In the new rule, ITD identifies "interim" USFS "criteria" – regarding dimensions, hours of travel, and roadway/vegetation modifications. ITD can not off-handedly assume that "interim"

equals set in stone. These criteria, as interim, can not be used by ITD to "resolve" the megaload matter. For this reason alone, ITD should realize the inappropriateness of its proposed rule and abandon this rule-making process.

Sincerely yours,

Debra K. Ellers

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From: Tom Kovalicky  
Sent: **Monday, October 10, 2016 12:30 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Rule IDAPA 39.03.11

I object to the implementation of this rule by IDOT as a waste of Tax Payers funds and the Theater of unprofessional conduct by the Leadership.....This rule is inappropriate, unnecessary and out of Context with the ongoing negotiations among the Tribe and the Forest Service....

Sincerely,

Tom Kovalicky  
Grangeville, Idaho

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From: Janet Sherman  
Sent: **Monday, October 10, 2016 2:12 PM**  
To: Ramon Hobdey-Sanchez  
Subject: OPPOSED to proposed Rule IDAPA 39.03.11

Dear Mr. Holden-Sanchez,

My husband and I are strongly opposed to ITD's proposed Rule IDAPA 39.03.11 regarding the permitting of oversize, non-reducible loads, *aka* "megaloads," through the Lochsa-Clearwater U.S. 12 Wild & Scenic River corridor.

We spent three weeks along the Lochsa River this summer and speak from personal experience.

We believe the standing of Highway 12 as a National Scenic Byway should exempt it from use as a heavy industrial transportation corridor for which it is not designed. We believe the transportation of oversize, non-reducible loads jeopardizes the corridor and all it represents in terms of archeology, history, culture, recreation, and scenery. We offer two supporting points:

1) For normal traffic, it is a mentally and physically demanding stretch of road to drive because of the relentless curves, some with speeds as low as 25 mph. It is a two-lane road. These factors contribute to increased risk of accident in transporting oversize, non-reducible loads. The increased risk of accident and proximity of the highway to the Lochsa River and tributaries poses

an unacceptable risk to the river. The Lochsa is also a river used by salmon returning to Idaho to spawn. This area of the Bitterroot Range also contains the priceless archaeology, culture, and history of the Nez Perce Native American tribe and the 1805 trails of the Lewis & Clark Expedition. The river and its surrounding landscape should be protected.

We oppose Rule IDAPA 39.03.11, which would expose the Lochsa River and the area's archaeology, history, culture, scenery, and recreation to the risk of damaging accidents caused by the transportation of oversize, non-reducible loads under the demanding conditions of this winding, two-lane road: U.S. Highway 12.

2) There are signs on U.S. Highway 12 all along the Lochsa River that designate the highway as a "Wild and Scenic Byway." The U.S. Department of Transportation Federal Highway Administration National Scenic Byways Program began in 1991 to recognize roads having outstanding archaeological, (and) cultural, (and) historic, (and) natural, (and) recreational, and scenic qualities. In 1996, the first roads were designated by the U.S. Secretary of Transportation as National Scenic Byways and All-American Roads--recognized today as America's Byways. The Northwest Passage Scenic Byway (U.S. Highway 12) is included as one of only "300 Best Drives in the U.S." in the *Guide to Scenic Highways and Byways* published by National Geographic. This Scenic Byway should be protected.

Proposed Rule IDAPA 39.03.11 exposes the Lochsa River, tributary, and surrounding area to unacceptable risk and contradicts the following quote from Ray LaHood, as U.S. Secretary of Transportation. "America's Byways offer us the opportunity to explore our nation in a truly unique way. **The U.S. Department of Transportation is committed to preserving these scenic routes** to ensure travelers experience the best of U.S. History, culture, and nature. The beauty of these roadways helps tell our American story, whether traveling across the country or close to home." -- Ray LaHood, U.S. Secretary of Transportation.

We oppose Rule IDAPA 39.03.11 regarding the permitting of oversize, non-reducible loads, *aka* "megaloads," through the Lochsa-Clearwater U.S. 12 Wild & Scenic River corridor.

Sincerely,

Ken and Janet Sherman  
Boise, Idaho

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From: Nellie Baker  
Sent: **Monday, October 10, 2016 6:32 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Lochsa Mega Loads

I am strongly opposed to Mega Loads on Highway 12 along the Lochsa-Clearwater Wild & Scenic corridor.

Nellie Baker  
Boise, ID

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From: Jeff.Caroline Strong  
Sent: **Monday, October 10, 2016 9:12 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Opposition to Megaloads on US 12

Ramon,

I wanted to send a brief email communicating my opposition to the use of US 12 for Megaload transportation. This one of the most beautiful and pristine areas in Idaho and I would hate for the area to be damaged by an unfortunate accident. There are alternate routes for the companies that would like to utilize US 12. Mindfully, this is at a higher cost but far less expensive than ruining one of the most beautiful areas in the state.

Thank you for your consideration

Jeff Strong

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From: Edwina Allen  
Sent: **Monday, October 10, 2016 10:27 PM**  
To: Ramon Hobdey-Sanchez  
Subject: comment on proposed Rule IDAPA 39.03.11

I am opposed to the Idaho Transportation Department's current rule making process regarding permitting for non-reducible, oversized loads ("megaloads") traveling on U.S. 12 in northern Idaho through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since at this time there is court-ordered mediation taking place regarding this issue, rulemaking by ITD is not appropriate.

I am one of the many citizens who have commented that I oppose the transportation of any megaloads along U.S. 12 between Mileposts 74-174. This proposed ITD permitting process is a waste of taxpayer dollars; ITD should detail the fiscal impact cost of the time spent on permitting megaloads. Keeping megaloads off U.S. 12 is the best choice for the people of Idaho, and for the local economy.

Thank you for this opportunity to comment.

Edwina Allen  
Boise, ID

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From: Zoe Cooley  
Sent: **Monday, October 10, 2016 2:24 AM**

To: Ramon Hobdey-Sanchez  
Subject: Proposed rule to allow megaloads on US 12

Hello Mr. Sanchez,

Megaloads do not belong on Highway 12 from Lewiston to Lolo, Montana. This wild and scenic river, mountain and forest corridor is precious and beautiful. It is time for the leaders of the State of Idaho to let it be without the intrusion of oversized megaloads.

Zoe Cooley  
Troy, ID

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From: Robert Lang  
Sent: **Tuesday, October 11, 2016 10:26 AM**  
To: Ramon Hobdey-Sanchez  
Subject: proposed Rule (IDAPA 39.03.11)

I am emailing to comment on the Idaho Transportation Department's newly proposed Rule (IDAPA 39.03.11) regarding the permitting of oversize, non-reducible loads, aka "megaloads," through the Lochsa-Clearwater U.S. 12 Wild & Scenic River corridor.

The idea that we should allow the industrialization of one of our nation's premier Wild & Scenic corridors, and, in turn, wedge cracks into the Wild & Scenic Rivers Act is preposterous. We as a people have decided to protect a few areas of our nation from industrial development and exploitation.

As per District Court Judge B. Lynn Winmill's court ruling, the pending definition of and permitting status of oversize, non-reducible load shipments on U.S. 12 is currently in the hands of the mediation parties and the court, not in the hands of ITD. That is, ITD currently has no authority to define or permit oversize, non-reducible load shipments on U.S.12, Mileposts 74-174. Therefore, rather than write a new rule, ITD should simply not permit such loads.

The broader public represented by the federal case plaintiffs oppose all permitting of oversize, non-reducible "megaload" shipments through the Lochsa-Clearwater Wild and Scenic U.S. 12 corridor. Since 2010, that opposition has been clearly, loudly expressed. ITD knows, therefore, that this proposed rule is, in total, opposed by a multitude of citizens.

The state of Idaho stands to gain much by preserving its great natural resources. The port of Lewiston is in decline, the removal of the 4 lower Snake River Dams would financially benefit the region. Allowing Exxon Mobil and other corporations to exploit the U.S. 12 Wild & Scenic River corridor would work for the profits of these corporations, not the citizens of Idaho and the region.

Robert Lang  
Ignacio, Colorado

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From: Pat Mills  
Sent: **Tuesday, October 11, 2016 11:05 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Mega loads

For the record, I am vehemently opposed to allowing mega loads up the Lochsa River corridor. I was in the transportation business in Idaho for 35 years and there are other viable alternatives to transport these loads to their destinations. Thank you for passing on.

Pat Mills

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From: Sheryl Nims  
Sent: **Tuesday, October 11, 2016 1:16 PM**  
To: Ramon Hobdey-Sanchez  
Subject: megaloads on U.S. Highway 12

ITD should not allow itself to be in the position of deciding if megaloads are allowed on the narrow curvy highway that includes the Wild and Scenic Corridor! This issue has already been determined to be illegal and certainly not feasible, given the type of highway involved. I invite you to experience the frustration of being behind one of the behemoths without the option of passing, driving between 5 and 15 mph for up to an hour. Even school buses coming back from games had to crawl along. It also affected tourists, truckers, deliveries, and log trucks. There is no benefit for the people and businesses, just long delays! We feel ITD should just say no to megaloads, and put an end to any new rules.

Thank you,

Sheryl and Larry Nims  
Kamiah, ID

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From: Shannon Mitchell  
Sent: **Tuesday, October 11, 2016 1:17 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

ITD wants to move forward, even though the Forest Service and Nez Perce tribes have not come to a conclusion for a ruling by the Forest Service re the road.

The Forest Service retains jurisdiction and shouldn't be overridden by the ITD.

The Forest Service has yet to establish guidelines and rules governing megaload shipments on HWY 12 and ensuring protection of the Lochsa and Middle Fork Clearwater Rivers.

Additional limits should be placed during the winter for public safety reasons.

ITD should also be working to restrict transportation of toxic materials on this route.

Please drop the proposed rule making in order to protect this valuable route on Highway 12.

Sincerely,

Shannon Mitchell  
Sandpoint, ID

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From: H Lynne Haagensen  
Sent: **Wednesday, October 12, 2016 1:37 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Proposed rule to allow megaloads on US 12

Hello Mr. Sanchez,

In my view the Idaho Transportation Department has no business drafting rules at this time for megaload transportation on scenic Highway 12. It does not have this authority. The matter is currently under negotiation that involves the Federal government and Native American tribes.

The ITD should be cognizant that thousands of Idahoans have already protested megaload transportation. This is not a fresh proposal, its one to which the people have resoundingly said "NO".

Highway 12 is a special scenic corridor. Its time for ITD stops threatening its beauty.

Thank you for your attention.

H Lynne Haagensen  
Troy, ID

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From: Vince Murray  
Sent: **Thursday, October 13, 2016 7:40 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Megaloads and Highway 12



It is far past time for DOT to end ALL efforts at sending megaloads over Highway 12 along the Selway River. The public and the courts have already spoken clearly on this issue, and the DOT should respect their voices. Instead, DOT is once again attempting to do another end run around public opinion in order to serve private interests. Stop ignoring our wishes! End ALL current and future attempts at using Highway 12 along the River River for the transportation of megaloads!

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From: James May  
Sent: **Thursday, October 13, 2016 10:26 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Lochsa-Clearwater Wild and Scenic Corridor

The State is still trying to turn this beautiful valley into an industrial corridor. Stop it! It's not necessary nor needed - except to try to revive a dying barge and shipping business at the Port of Lewiston.

The lower dams are killing the salmon and steelhead and need to be breached. We can all enjoy benefits of an increase in fishing that is already a great source tourist trade that comes annually to this valley.

We don't have to destroy everything that nature provides in paying blind homage to 'The Almighty Dollar' and the failed 'Trickle-Down' economic policy of Republican politics.

Leave the Lochsa-Clearwater Wild and Scenic Corridor alone.

Jim May  
Owner Reflections Inn  
Kooskia, Idaho

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From: Thomas J Jones IV  
Sent: **Thursday, October 13, 2016 1:48 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. As a 5th Generation Idahoan I take great pride in the natural Wonders of Idaho. The Middle Fork of the Clearwater River and the Lochsa River should be managed by the United States Forest Service in accordance with The Wild and Scenic Rivers Act. Megaloads should not be allowed along these Scenic Highways. Thank you for your consideration. Thomas J. Jones IV

Thomas J Jones IV  
BOISE, ID

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From: Gerry Snyder  
Sent: Thursday, October 13, 2016 2:04 PM  
To: Ramon Hobdey-Sanchez  
Subject: Highway 12 corridor comments

Greetings:  
Please seriously consider these comments and also include them into the official record.

I and the public oppose the use of Highway 12 for the use of megaloads and any other efforts to commercialize this valuable scenic byway treasure in Idaho.

This stretch of Highway 12 is one of the most scenic roadways in the nation. It is also a sensitive and important Wild and Scenic River Corridor that needs to be protected, not exploited.

The state of Idaho needs to implement rules and guidelines to better protect Highway 12 and other byway and river corridor areas.

Sincerely,

Gerry Snyder  
Manhattan, KS

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From: Benjamin Snider  
Sent: **Thursday, October 13, 2016 5:58 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Benjamin Snider  
Boise, ID

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From: Brian O'Neill  
Sent: **Thursday, October 13, 2016 6:05 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

Mega loads are not safe to travel in that corridor and should never have been permitted to. This equipment is for the Tar Fields, really, aren't we as a world-country-state working on environmentally sustainable energy? There is a lot of recreational opportunities that could be permanently altered if an accident were to occur on highway 12. I hope that big business doesn't succeed in putting a price tag on our designated Wild and Scenic Corridor. Please be thoughtful of your influence and actions as they set a precedence for future decisions.

Brian O'Neill  
Boise, ID

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From: Margaret Glenn  
Sent: **Thursday, October 13, 2016 6:17 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Margaret Glenn  
Boise, ID

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From: Brad Jaeckel  
Sent: **Thursday, October 13, 2016 8:12 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Proposed rule to allow megaloads on US 12

Hello Mr. Sanchez,

I DO NOT support the use of mega-loads on the Highway 12 corridor.

Brad Jaeckel  
Moscow, Idaho

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From: Muneta, Joann  
Sent: **Thursday, October 13, 2016 9:28 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Public comment re megaload policies hwy 12

Joann and Paul Muneta do not want any changes to allow megaload policies on Hwy12. They ruin our beautiful forests and hurt Idahos economy by decreasing tourism. Further policies need to be done in consultation with tribes whose land is involved. Please extend comment period and work with Nez Perce Tribe and other stakeholders.

Thank you.  
Joann and Paul Muneta

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From: Pat  
Sent: **Thursday, October 13, 2016 10:31 PM**  
To: Ramon Hobdey-Sanchez  
Subject: U.S.12 administrative rulemaking

I oppose the new rulemaking because it facilitates the import of foreign-made equipment. This makes ITD directly responsible for the loss of US jobs.

Dan Rathmann  
83843

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From: Janice Inghram  
Sent: **Thursday, October 13, 2016 10:39 PM**  
To: ramon.hobdey-sanchez@itd.idaho.gov.  
Subject: Comments on Overlegal Permittee

To: Idaho Transportation Department

RE: Proposed New Rules governing over legal permittee

Date: October 13, 2016

ITD's proposed rules changes appears to be a "fishing expedition" to appease the Port of Lewiston, the Governor and the State Legislature in their desire to turn Hwy 12 into a conduit for oversize, non-reducible loads.

Oversized loads are traveling Hwy 12 now but attempts to bring megaloads back fail to consider on-going federal litigation, failure to serve the public safety, failure to protect the qualities of the Lochsa Wild and Scenic River corridor, failure to acknowledge extra costs and certain damage to roadways.

As concerned citizens, we've monitored megaload transports in the past and found that ITD failed to follow their own rules causing safety issues for Hwy 12 users, monetary losses for commercial users such as logging trucks/truckers and power outages to name a few negatives.

Proposed rule changes to accommodate megaloads waste taxpayers money. "Don't go down this road."

Roger and Janice Inghram

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From: Jonathan Oppenheimer  
Sent: **Thursday, October 13, 2016 11:01 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Reject proposed rule

Dear Mr. Hobdey-Sánchez;

Thank you for the opportunity to provide comments on the proposed Hwy 12 Oversized Vehicle Rules. While I appreciate the desire to establish clear guidelines and criteria that can assist decision makers, the proposal falls short for a variety of reasons.

First, the Forest Service hasn't yet finalized criteria defining megaloads and as a result, the ITD proposal is premature. If the FS were to implement other criteria, which they are currently in mediation to establish, the proposed ITD rules would need to be amended. Further, there is no FS approval for transport of oversized loads on HWY 12, and as such, no reason to implement these rules.

As a University of MT graduate and an Idaho resident, I continue to travel Lolo Pass and the HWY 12 corridor with some regularity. As a result, I know that the road can present hazardous conditions, especially during the winter including Oct-May (Lewis and Clark even saw deep snows in the area in early September!). Because of these conditions, if the rule moves forward, additional limitations on winter transport should be implemented, that accounts for weather forecasts and only authorizes travel when conditions are nearly certain to be clear and warm.

Along those lines, because of the importance of the Lochsa and Clearwater river systems for municipal water supplies and the protection of threatened and endangered and sensitive aquatic species, additional limitations should be considered on the transport of diesel, toxics and other hazardous materials. While I recognize that the route via Hwy 95 may pose other concerns, the recent and ongoing improvements there, coupled with the reduced elevation and reduced windiness of the road offer an alternative route for these potentially hazardous materials. Again, thank you for considering these comments and please keep me informed as these and other rulemakings associated with Highway 12 transportation rules move forward.

Jonathan Oppenheimer  
Boise, ID

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From: Kim Coe  
Sent: **Thursday, October 13, 2016 11:03 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads. It is time to stop bowing to big dirty oil and remember the beauty of what we have in Idaho. Believe me- these companies will not help in any clean up should something go wrong and our

state and children will be left with nothing but disaster and only photos to see what was once here.

I am a descendant of early Oregon 1842 and Idaho 1862 pioneers.

Kim Coe  
Boise, ID

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From: Stephan Flint  
Sent: **Thursday, October 13, 2016 11:18 PM**  
To: Ramon Hobdey-Sanchez  
Subject: US 12 rulemaking

It appears to me that this rulemaking is an attempt to circumvent the current injunction against these extreme oversize loads. If ITD is disappointed in the pace of resolution of the issue, their recourse should be to the court, not arbitrary rulemaking. My personal opinion is that the USFS needs to prohibit these loads from traversing US 12.

Stephan Flint  
Moscow, ID

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From: Cathy Butterfield  
Sent: **Friday, October 14, 2016 8:20 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The megaloads contribute to climate change. The math and science back up the fact we are heading for tragic change. You can land on the right side of history in this decision. Please, stand up to the corrupting influences surrounding this issue.

The U.S. Forest Service has not yet finalized criteria defining megaloads. Rather than cave into moneyed interests, please consider all the ecological and social impacts, both in the near future and for climate degradation.

The ball has landed in your court for this issue--please look to the long view, rather than the interests for small and small minded profiteers.

Thank you for listening,

Cathy Butterfield  
Ketchum, ID

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From: Kim Bosket  
Sent: **Friday, October 14, 2016 8:41 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Thousands do boaters from literally all over the world come to Lochsa to enjoy the beautiful river and awesome whitewater.

My concern with the mega loads is the public would be denied public access to the river. I also worry about accidents that would cause pollution and obstruction to the river its self. It is a narrow corridor with congested traffic as it is with campers, trailers, motorcycles, and road bikes. I don't see how the corridor would be available or safe for such traffic with oversized trucks clogging up the road. Please consider the wildlife and the conservation of the corridor before big oil.

Kim Bosket  
Billings, MT

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From: Keith Shidemantle  
Sent: **Friday, October 14, 2016 9:45 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Keith Shidemantle  
Boise, ID

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From: Marilyn McIntyre  
Sent: **Friday, October 14, 2016 9:50 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Megaload Rules

I ask that you reject the rushed Hwy 12 megaload rules revisions, extend the period for public comment on changes after expanding the hearing sites to include impacted communities. It is time to banish all fossil fuel and megaload transportation on Idaho's rivers, rails and roads.

I stand in solidarity with the Nimiipuu people who are working to protect their sacred sovereign lands and with all of us who to whom saving our water and climate is of ultimate importance.

Sincerely,  
Marilyn M. McIntyre

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From: Juanette Cremin  
Sent: **Friday, October 14, 2016 10:01 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Proposed rule to allow megaloads on US 12

Hello Mr. Sanchez,

The Wild and Scenic Clearwater/Lochsa corridor is a national treasure. This designation recognizes the valuable resource it is for both wildlife and fish, as well as its outstanding scenic importance.

In addition to Highway 12's crucial transportation link for residents living and working along the corridor, it serves as a significant route between Montana and Idaho, not only for travelers and tourists, but for commercial vehicles as well.

Opening this roadway to what the industry is calling "non-reducible" oversized loads jeopardizes this route. During the short period these loads were previously traversing the highway, medical emergencies were compromised, and one or more megaload was unable to safely negotiate at least one tight corner on the route.

Further, when pressed, it was found these loads could, in fact, be reduced in size. And, further still, alternate routes were discovered. Highway 12 does not need to be compromised by turning it into an industrial truck route.

The on-going nature of the discussions with plaintiffs Idaho Rivers United, as well as the Nez Perce tribe and the U.S. Forest Service, illustrate how the state of Idaho is wasting taxpayer dollars by drafting and possibly creating a rule for a situation over which it has no jurisdiction.

Not surprisingly, the current rulemaking process being conducted by the state of Idaho and the Idaho Transportation Department lacks genuine transparency and public involvement. The state proposed the rule without public input. This is not how the democratic process is designed to work.

The public has repeatedly shown it does not support the permitting of non-reducible oversized shipments on Highway 12 or within the Wild and Scenic River Corridor. This current rulemaking effort is wasting limited taxpayer funds on a matter already decided and this process should be brought to an immediate end.

Juanette Cremin  
La Grande, OR

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From: Erik Johnson  
Sent: **Friday, October 14, 2016 11:14 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

I have spent several summers in the region of Hwy 12 and the Lochsa river. It is a special place.

The U.S. Forest Service has not yet finalized criteria defining megaloads. Please put our scenic rivers before Mega-loads and money.

Instead of working to promote oversized shipments on Highway 12, the Idaho Transportation Department should instead consider limitations on the hauling of toxic materials along the route.

Thanks,

Erik Johnson  
Truckee, CA

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From: Eric Frazee  
Sent: **Friday, October 14, 2016 11:23 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Eric Frazee  
Missoula, MT

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From: Renee Zettle  
Sent: **Friday, October 14, 2016 11:37 AM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

The Forest Service retains jurisdiction to ensure that the Lochsa and Middle Fork Clearwater Rivers are protected. The Idaho Transportation Department cannot override the Forest Service's responsibilities. Megaloads are on hold, and ITD's proposal should be as well.

The Forest Service has only developed interim criteria to define a megaload; the agency has not established any rules or guidelines governing transport along Highway 12.

Additional limitations should be placed on megaload shipments during the winter—especially during inclement weather—to protect public safety.

Instead of working to promote oversized shipments on Highway 12, the Idaho Transportation Department should instead consider limitations on the hauling of toxic materials along the route.

This would be devastating to our wild and scenic byway. This is Idaho, let's keep her the natural beauty that she is.

Kindly,

Renee Zettle  
Boise, ID

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From: Sara Moffett  
Sent: **Friday, October 14, 2016 11:53 AM**  
To: Ramon Hobdey-Sanchez  
Subject: megaloads

I would like to officially state that I am AGAINST any megaloads using the Highway 12 corridor. The Nez Perce Tribe and the State of Idaho have many historical sites/cultural sites along the Clearwater River and if the megaloads are approved to use Highway 12 it would be detrimental to those sites. Plus, the wildlife and the fish in the Clearwater river for their food source is at great risk, too especially if there is a spillage. The human factor is also at risk especially if there is an accident. I drive this road Monday through Thursday and the amount of traffic on this road and the number of accidents have increased over the years. If the megaloads use this road it'll increase the number of accidents for people using this highway or if they have to find an alternative route.

Again, I would like my comments to be against the megaloads to use Highway 12.

Sara L Moffett

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From: Robert Fuller  
Sent: **Friday, October 14, 2016 12:14 PM**  
To: Ramon Hobdey-Sanchez  
Subject: No mega loads on highway 12

Sir,

I need to express my opposing opinion to the state of Idaho's decision to allow mega loads on highway 12. All my life I have used highway 12 to access the Clearwater , Selway and Lochsa River areas . I'm very aware of many occasions where regular sized trucks have gone into the river especially the Lochsa causing damage to the river and disruption of local travel . Unfortunately I have seen a large increase of thru car and truck traffic traveling east and west making local travel more dangerous due to the complexity of maneuvering this highway.

By allowing mega loads to use highway 12 you endanger not only the river but those of us who use highway 12 . Your choice is totally unacceptable to the people of Idaho.

For your information I am a 4th generation Idaho resident which makes my great grand children 7 th generation . YES, that does give our say in the matter more weight !!!

Rob Fuller, M.D.  
Salmon, Idaho

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From: NIC PASKETT  
Sent: **Friday, October 14, 2016 1:46 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

NIC PASKETT  
BOISE, ID

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From: HAROLD MILLER  
Sent: **Friday, October 14, 2016 2:08 PM**  
To: Ramon Hobdey-Sanchez  
Subject: ITD Rule Comments - Megaloads

As an Idaho citizen and recreation user of the Lochsa River corridor for over 30 years, **my family opposes the proposed ITD rules for megaloads for the following reasons:**

1. **The public does not want an industrial corridor with megaloads to travel through the scenic Highway 12 byway, the Nez Perce reservation, and Idaho's rural towns and cities.** The public's views have already been well demonstrated and documented. The ITD and State must listen to and act as an advocate for the public rather than for the interests of megaload companies.

2. The **proposed rules are premature and are in direct opposition to the federal court's injunction. The ITD and State must not act prematurely and circumvent the federal injunction of megaloads along Highway 12.**
3. The ITD and State must let the mediation between the Nez Perce tribe, Idaho Rivers United, and the U.S. Forest Service continue and be respected.
4. An industrial corridor along Highway 12 and Idaho rivers jeopardizes public safety, invites irreparable damage to our rivers and communities, and ignores the values of the Nez Perce tribe and Idaho citizens.
5. There has been a financial impact of megaloads on the public. The ITD and State must disclose this information and cease using tax payer money to accommodate megaloads in Idaho.
6. Any proposed rules for megaloads must involve wide public involvement before bringing forth any rules for input. The ITD and State must increase transparency in decision making and involve all impacted constituents in issues related to megaloads.

Barbara McNeil  
Eagle, Idaho

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From: Pat  
Sent: **Friday, October 14, 2016 3:22 PM**  
To: Ramon Hobdey-Sanchez  
Cc: Pat  
Subject: U.S. 12 Rulemaking

My reasons for opposing any re-opening of Rte. 12 to allow over-sized loads are as follows:

1) I moved to Moscow five years ago to enjoy the natural beauty of the area's National Forests and free flowing Lochsa River. I did not leave Cincinnati to find the Wild and Scenic River Corridor turned into an industrial highway.

2) Having attended demonstrations against the mega-loads in past years, I am well aware of the objections of the Nez Perce Tribe to this violation of their cultural and environmental rights caused by transporting over-sized equipment through their homeland. Much of this equipment will also be destined for the Alberta Tar Sands and Montana refineries contributing to the release of fossil fuels. Regardless of where they are headed, until these mega-trucks are re-fitted to burn less diesel, they will be contributing to climate change, what scientists have labeled one of the serious threats our world is facing.

3) Judge Winmill issued a closure order in 2013 concerning sections of Rte. 12 which is still in effect. Therefore until this is resolved, any state rule making is not only premature, but could actually contribute to further negative action on the part of area residents.

Thank you for considering the comments of this 80 year old grandmother who is doing her best to leave a better world for her grandchildren.

Patricia Rathmann  
Moscow, ID

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From: LeAnn  
Sent: **Friday, October 14, 2016 3:29 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Rulemaking US-12 Mega Loads

To Whom it Concerns,

As a lifetime resident of Idaho County I am in favor of allowing Mega Loads to travel HWY 12. The loads formerly in question were pristine non-toxic and would do no harm to the environment even if they wrecked which at the speed of 25mph is highly unlikely.

The traveling of these loads had the actual value of creating jobs, and supporting local businesses'.

This HWY was built for commerce. These loads do not disrupt normal flow in anyway not able to be mediated.

Please do not allow those folks whom scream about fake concerns destroy this free flow of commerce on our highways. We should all be allowed to use a highway that is supported by the taxpayer and fuel tax's to exist.

Thanks for taking comments on this issue.

LeAnn Nelson  
Kooskia, Idaho

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From: Scott Jill Eckberg  
Sent: **Friday, October 14, 2016 4:04 PM**  
To: Ramon Hobdey-Sanchez  
Subject: US Highway 12 Oversized Loads Rules Comments

This is not my first time commenting on the oversized loads on US Highway 12 in Northern Idaho, either in writing or at a public forum. What I am astounded by, is that ITD is continuing to pursue this issue. I have driven this highway under all weather conditions hundreds of times over the past three and a half decades. My husband drives portions of this road several times each week for his job, sometimes as far as Lolo Pass. He has personally seen, and responded to fatal head-on collisions and other accidents on this dangerous, narrow road. It is not the kind of road, no matter how many escorts you have, how many turnouts you use, nor how many rules you make for oversized loads!

US Highway 12 has intrinsic scenic, natural, cultural, historical, and recreational qualities and resources eminent along this motorway. These are nationally significant, encompassing two federally designated national historic trails (Nez Perce and Lewis & Clark), a national historic landmark (Lolo Trail NH), a wild and scenic river, many units of Nez Perce National Historical Park (NPS), and an All-American Road. The abundance, accessibility, and integrity of these resources in one are-- between Lewiston and Lolo Pass-- are assets that are incomparable and rarely matched elsewhere in the U.S. In addition, traversing the traditional homeland of the Nez Perce people with these huge transports borders on sacrilege. Once these rules are established and permits granted, a precedent would be set that is both contrary and derogatory to long-term resource preservation, recreational access, transportation safety, and residential quality of life in north central Idaho.

The Northwest Passage Scenic Byway should remain as such, without the threat of oversized loads approved by ITD. It is neither a commercial nor an economic issue, it is a moral one. I urge your department to honor the public good, and drop continued efforts to allow oversized loads on Highway 12.

Jill Eckberg  
Lewiston, ID

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From: Josh McDannel  
Sent: **Friday, October 14, 2016 4:10 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Josh McDannel  
Boise, ID

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From: David Konigsberg  
Sent: **Friday, October 14, 2016 4:24 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

The Forest Service retains jurisdiction to ensure that the Lochsa and Middle Fork Clearwater Rivers are protected. The Idaho Transportation Department cannot override the Forest Service's responsibilities. Megaloads are on hold, and ITD's proposal should be as well.

The Forest Service has only developed interim criteria to define a megaload; the agency has not established any rules or guidelines governing transport along Highway 12.

Additional limitations should be placed on megaload shipments during the winter—especially during inclement weather—to protect public safety.

Instead of working to promote oversized shipments on Highway 12, the Idaho Transportation Department should instead consider limitations on the hauling of toxic materials along the route.

David Konigsberg  
Arvada, CO

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From: Harry Miller

Sent: **Friday, October 14, 2016 5:53 PM**

To: Ramon Hobdey-Sanchez

Subject: Megaload Miller comments Oct2016.docx - ThinkFree Write

Appreciate your consideration.

As an Idaho citizen and recreation user of the Lochsa River corridor for over 30 years, **my family opposes the proposed ITD rules for megaloads for the following reasons:**

1. **The public does not want an industrial corridor with megaloads to travel through the scenic Highway 12 byway, the Nez Perce reservation, and Idaho's rural towns and cities.** The public's views have already been well demonstrated and documented. The ITD and State must listen to and act as an advocate for the public rather than for the interests of megaload companies.
2. **The proposed rules are premature and are in direct opposition to the federal court's injunction. The ITD and State must not act prematurely and circumvent the federal injunction of megaloads along Highway 12.**
3. The ITD and State must let the mediation between the Nez Perce tribe, Idaho Rivers United, and the U.S. Forest Service continue and be respected.
4. An industrial corridor along Highway 12 and Idaho rivers jeopardizes public safety, invites irreparable damage to our rivers and communities, and ignores the values of the Nez Perce tribe and Idaho citizens.
5. There has been a financial impact of megaloads on the public. The ITD and State must disclose this information and cease using tax payer money to accommodate megaloads in Idaho.
6. Any proposed rules for megaloads must involve wide public involvement before bringing forth any rules for input. The ITD and State must increase transparency in decision making and involve all impacted constituents in issues related to megaloads.

Harold Miller  
Eagle, Idaho

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From: Westervelt, Susan  
Sent: **Friday, October 14, 2016 7:11 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Megaloads on Highway 12

The state of Idaho has the authority to conduct rule making for matters under its jurisdiction, but allowing megaloads to traverse Highway 12 is not one of them, since the Highway 12 corridor over Lolo Pass falls under the jurisdiction of the US Forest Service and the Nez Perce Tribe. If Idaho chooses to adopt this rule following public involvement, it does not take precedence over the results from the on-going government-to-government consultation, and the on-going discussions with plaintiffs Idaho Rivers United. The state of Idaho is wasting taxpayer dollars by drafting and possibly creating a rule for a situation over which it has no jurisdiction.

- The current rule making process being conducted by the state of Idaho and the Idaho Transportation Department lacks genuine transparency and public involvement. The state has already proposed the rule; Idaho could have engaged the public before the rule-making proposal if it was truly interested in public dialogue and concern.

- The public does not support the permitting of non-reducible oversized (megaloads) on Highway 12 or within the Wild and Scenic River Corridor. This is rehashing what has already been decided.

Susan Westervelt  
Deary, ID

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From: Karen Harris  
Sent: **Friday, October 14, 2016 7:39 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Too early for ITD to draft a rule on Hwy 12 megaloads

Dear Mr. Hobdey-Sánchez;

The U.S. Forest Service has not yet finalized criteria defining megaloads.

Karen Harris  
Boise, ID

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From: David Hall  
Sent: **Friday, October 14, 2016 8:00 PM**



To: Ramon Hobdey-Sanchez  
Subject: US 95 extra-legal rulemaking comments

Idaho's rules for Highway 12 do not take precedence over the results from the on-going government-to-government consultation, and the on-going discussions with plaintiffs Idaho Rivers United.

This attempted rule-making over which Idaho has no jurisdiction seems to be a waste of time and money.

David Hall  
Moscow, ID

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From: Ken Sherman II  
Sent: **Friday, October 14, 2016 9:01 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Protect the Lochsa River

Dear Mr. Hobdey-Sanchez

As an Idaho citizen and recreation user of the Lochsa River corridor, my family opposes the proposed ITD rules for megaloads for the following reasons:

- 1. The public does not want an industrial corridor with megaloads to travel through the scenic Highway 12 byway, the Nez Perce reservation, and Idaho's rural towns and cities. The public's views have already been well demonstrated and documented. The ITD and State must listen to and act as an advocate for the public rather than for the interests of megaload companies.
- 2. The proposed rules are premature and are in direct opposition to the federal court's injunction. The ITD and State must not act prematurely and circumvent the federal injunction of megaloads along Highway 12.
- 3. The ITD and State must let the mediation between the Nez Perce tribe, Idaho Rivers United, and the U.S. Forest Service continue and be respected.
- 4. An industrial corridor along Highway 12 and Idaho rivers jeopardizes public safety, invites irreparable damage to our rivers and communities, and ignores the values of the Nez Perce tribe and Idaho citizens.
- 5. There has been a financial impact of megaloads on the public. The ITD and State must disclose this information and cease using tax payer money to accommodate megaloads in Idaho.

- 6. Any proposed rules for megaloads must involve wide public involvement before bringing forth any rules for input. The ITD and State must increase transparency in decision making and involve all impacted constituents in issues related to megaloads.

Ken Sherman  
Boise, Idaho

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September 26, 2016

Re: Public Comments

NO MEGALoads ON U.S. HIGHWAY 12!

Shelley Dumas

Grangeville, ID

NO OVER SIZED LOADS ON  
HIGHWAY 12.

B. Hazelbaker  
Grangville, ID



**COMMENT FORM**  
**Idaho Transportation Department**  
**U.S. 12 Administrative Rulemaking**

**Wednesday, September 28, 2016**  
**4pm-7pm (MDT)**

YOU MAY LEAVE YOUR COMMENTS — OR MAIL, EMAIL, CALL:

**ITD—Rule Comments**

**Attn: Ramón Hobdey-Sánchez**

**P.O. Box 7129 ♦ Boise ♦ ID ♦ 83707-1129**

**Email:**

**ramon.hobdey-sanchez@itd.idaho.gov**

**Ph. (208) 334-8810**

**Please submit your comments on ITD's administrative rulemaking by  
midnight October 14, 2016. Thanks!**

Justification for eliminating large loads transiting Idaho on U.S. 12 is weak when looking at the impacts addressed by those opposed to the specific movement of petroleum processing equipment. Previous discussions forced the use of the route to be delayed until adverse weather was present and impacted the safety beyond reasonable use.

It must be noted that hazardous materials move using this route routinely. I presume that you will address all factors in making your decisions.

Rodger F. Colgan  
618 Longbench Drive  
Orofino, ID 83544

[colgan2131@cpcinternet.com](mailto:colgan2131@cpcinternet.com)  
208-476-5108

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10/12/16

Specialist Hobby-Sánchez,

The state's history of disrespecting the will of the Nez Perce Tribe must end. The opportunity to deny the "Megaloads" access to HWY 12 is the perfect ~~exp~~ chance to adhere to their wishes.

As a Middle Fork of the Salmon River Guide, I can tell you, the less disturbance to Wild & Scenic corridors the better. Much of the local community agrees with this sentiment. Don't allow these disturbances through. Find another route.

I think it's important to adhere to Judge Winnill's lead and deny these Megaloads.

Sincerely,

University of Idaho Law Student

Oct. 12, 2016

Dear Mr. Hobden-Sánchez

Thank you for the opportunity to submit public comment on the State of Idaho's proposed Rulemaking for "mega" loads.

I'm surprised and disappointed that the transportation department is once again pursuing the possibility of transforming this beautiful scenic highway into an industrial corridor!

A closure order is still in effect on Highway 12 between miles markers 74-174, as ordered by a judge (federal judge Lynn B. Winnell) in 2013. As I understood this ruling, the State of Idaho has no legal jurisdiction over the Road closure, and therefore, pursuit of the State Rulemaking process is prematue, at best.

Not to mention the local people and tribal members (Nez Perce) have clearly expressed their opposition to the loads travelling through their land.

Please take some time to Review  
all public Comment before any  
type of Reversing of the Court order  
is pursued.

Perhaps, you should travel this  
beautiful stretch before making  
any further plans. Once again,  
listening to the people - especially  
indigenous folk should be of your  
highest priority.

No Means No.!

Regards,

Sandy Crooks  
3600 Highway 8  
Troy, Idaho 83871



Sirs:

10/12/16

This letter is against the mega loads  
from Lewiston ID to Montana. (Rt 12)

the public & no person people do not want  
this polluted traffic. We do not  
want this.  
Cease and desist. Stop!

Kate Beauregard

Kathy Beauregard  
1215 Creekside Ln.  
Moscow, ID, 83843

Oct. 12, 2016

Dear Mr. Ramon Hobday-Sanchez,

I would like to comment on Idaho's proposed rulemaking for oversized loads being allowed on Highway 12. I have visited and camped over the years in these beautiful forests. This is a Wild and Scenic River Corridor of incomparable value.

I regret the state of Idaho is again entertaining allowing megaloads here. There is widespread opposition to this idea, among them being the Nez Perce Tribe.

This proposal is ignoring past and present public sentiment. Please use your influence to permanently shut this idea down.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Cathryn Willmes

2152 Arbor Crest Rd

MANASSAS, MD 20108

October 13, 2016

Sirs:

I am against the Idaho Transportation holding a hearing to decide whether megaloads can once against travel the Wild and Scenic Corridor of Highway 12. This has already been decided by the federal government! The public should have been engaged in discussing such a matter before creating the rule.



Fred W. Rabe  
1715 Appaloosa Rd  
Moscow, ID 83843

Oct. 11, 2016

Ramón S. Hobday - Sánchez  
Governmental Affairs Program Specialist  
ITD

3311 W State St. Pkg 7129  
Boise, ID 83707-1129

Dear Mr. Hobday-Sánchez,

I am writing to express my disappointment @ the state of Idaho and the Idaho Transportation Dept. for pursuing the possibility of allowing oversized megaloads on scenic Highway 12.

I have several concerns about this proposal:

- 1.) The federal government and the Nez Perce Tribe are ~~not~~ currently in consultation regarding Federal Judge Lynn B. Wynn's 2013 Cont. ruling. Mediation is also on going between plaintiffs Idaho River United and the Forest Service.
2. The Nez Perce Tribe has expressed their opposition to megaloads through their lands.

3) There is very little support for  
megaloads traveling along Highway 12.

I oppose this proposed rule and urge  
you not to support allowing megaloads!

Sincerely

Sill Matwell  
1119 Lybandra Drive  
Moscow, ID 83843

Oct. 11, 2016

Ramon S. Hobday-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Dept.  
3311 W. State Street P.O. Box 7129  
Boise, Idaho 83767-1129

Dear Mr. Hobday-Sanchez

I am writing to urge you to prevent  
oversize loads from using Highway 12.  
The current and long term value of  
this wild and scenic river corridor is in its  
natural beauty and recreational value.  
The use of Highway 12 by oversize  
loads will inhibit the use of this highway  
for recreational use and will increase  
the likelihood of environmental damage.

Please prevent the use of Highway 12  
by oversize loads. Thank you for the  
opportunity to submit this comment.

Sincerely,  
William Beck  
3682 Estes Rd  
Billings, MT 59103

Oct. 12, 2016

Ramón S. Hobday - Sánchez  
Government Affairs Program Specialist  
Idaho Transportation Dept.  
3311 W. State Department  
Boise, Id. 83707-

Dear Sir,

Concerning the megaloads;  
How and why are we in this situation  
again? Has Federal Judge Lynn B.  
Winmill rescinded his decision?

Please look at this issue  
very carefully. Please drive our Wild  
and Scenic corridor and think of  
the disaster that could occur if mega-  
loads were allowed to invade Highway  
12 again.

On this special Indigenous  
Peoples Day I plead with you to honor  
our Nez Perce tribe and not transverse  
their precious land any further.

I know these behemoths  
as my fellow Great Old Broads for Wild-  
erness and I spent many a night/  
overlooking hawks in their domains.

Thanks for reading this letter  
and treating this issue with true  
conscience.

Cynthia Magnuson  
326 East A  
Moscow, Id 83843




Dear Mr Hobday-Sanchez,

Thank you for reading my comments regarding the potential of oversized "megaloads" along Highway 12. I will not get into the current legal status and rulings with which you are already familiar.

Allowing megaloads through our beautiful scenic river corridor is not a good course of action for the river, the wilderness, or our future (and current!) generations. This is true whether one considers direct, localized impacts on the scenic corridor and recreation tourism, or the wider reaching implications of supporting the continued highly destructive fossil fuel extraction in the once pristine reaches of northern Canada, and by extension, the world.

Sincerely,

  
Nicholas Fuller  
Concerned Individual

Mrs. Ram J. Hobday - Tucker

Why are you pursuing this effort  
to allow megaloads on Highway 12?  
Again? Please... here's why not:

- 1) Most of us in northern Idaho don't  
want these over-sized loads on this  
magnificent stretch of road;
- 2) An accident could be catastrophic,  
and one will happen;
- 3) There will be delays, even if you  
plan on night deliveries, things happen  
(like the hot tire, remember?);
- 4) The Nez Perce do not want these  
passing through their lands.

Let's not do this!

Sincerely,

Timothy D. Huth

Oct. 11, 2016

Ramón S. Hobley - Sanchez  
Idaho Transportation Dept.  
Boise, ID 83707-1129

Dear Mr. Ramon Hobley-Sanchez,

I would like to comment on the state of Idaho's proposed rulemaking for mega loads on Hwy 12. I am surprised + alarmed that there is a new possibility of this highway becoming an industrial corridor.

This section of highway 12 passes through the Wild + Scenic designated reaches of the ME Clearwater + Lochsa River. This is one of few areas in Idaho with this designation + it is especially important to protect it's water quality + scenic value. Many tourists visit Idaho because of these water bodies & beauty of the corridor.

The Nez Perce Tribe is also opposed to this route becoming an industrial corridor. ITD made no effort to contact the tribe prior to proposing this rule. The situation in Standing Rock, N. Dakota, has brought attention to the fact that tribes have not been receiving adequate consultation on activities in areas protected by Treaty Rights. The federal →

government recently halted the pipeline activities at Standing Rock until adequate consultation occurs. IDT needs to take the tribes' views into account.

Finally, there is no public support by hunters & fishermen & other users of the outdoors to turn Hwy 12 into an industrial corridor. This would cause increased congestion & wildlife disturbances, as well as put water quality & habitat at risk.

This is a misguided effort by IDT.

Sincerely,  
Ann Storr

12 October 2016

Ramón S. Hobday-Sánchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
Boise ID 83707-1129

Mr. Ramón S. Hobday-Sánchez:

I am strongly opposed to the proposed rulemaking for over-sized loads (megaloads) on Hwy 12. It is a travesty to attempt to turn this scenic highway into an industrial corridor on any basis. The potential for ecological disaster is absolutely unacceptable. Not one tree branch much less a possible contamination to land and river can be allowed here.

I would also point out that there is not public support for megaloads traveling along Hwy 12 and through the Wild & Scenic Middle Fork Clearwater and Lochsa River corridor. Those familiar with the route recognize the potential dangers, certain disruption, and assault to public opinion and the Nez Perce Tribe. This country must respect Native American rights and sentiment.

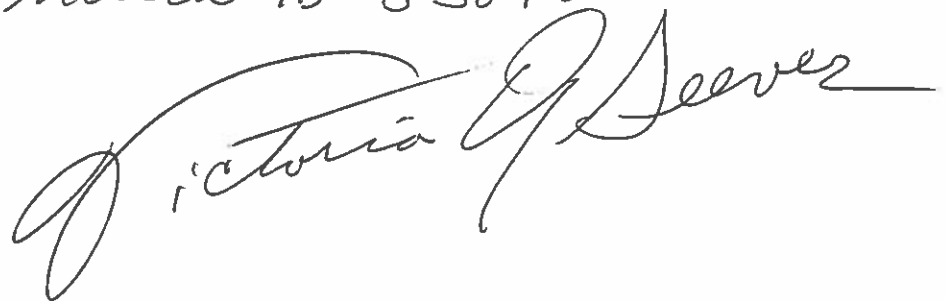
I have lived in Idaho most of my life, both north and south, and was educated at the University of Idaho where I worked until retirement in October 2011.

I expect Idaho to value and protect its scenic areas with full commitment.

Accidents happen with alarming frequency. Industrial accidents are devastating and often irreparable. This alone means no megaloads on this route. Even without accidents, traversing this route with megaloads cannot be permitted, it is unethical on many levels.

Respectfully,

Victoria A. Seever  
121 N. Lilly St.  
Moscow ID 83843

A large, stylized handwritten signature of Victoria A. Seever, written in dark ink.

October 12, 2016

Dear Ramon S. Haddock-Sanchez

Thank you for the opportunity to submit a public comment on the State of Idaho's proposed rulemaking for mega loads on Highway 12. ~~to~~

Concern for our national forests and the wildlife alone is a huge concern. Then there is the stress on the actual highway itself. Which shuts down the highway even longer for additional repairs. The cost of repairs alone are concerning for tax payers.

There is also a closure order in effect on Highway 12. Which was ordered by Judge Lynn B. Winnill. There is no legal jurisdiction.

Myself being born and raised in Montana, currently reside in Idaho the last 4 years. I know there are problems

and many concerns about these  
"mega loads".

Just imagine the mess, <sup>and the</sup> loss of  
wildlife and natural forest we would  
experience with one wrong move. One  
bad driver, one spat of ice! We as the  
people do not need more Superfund Sights.

Sincerely  
Anne Crosby



# NO means NO

megabucks— Clean air and water are more important than fossil fuels & money.

Dr. Starshine, Ph.D.

1200 32<sup>nd</sup> St. S. #23

Great Falls. MT 59405

Oct. 12, 2016

Ramon S. Hobday-Sanchez  
Governmental Affairs Prog. Specialist  
Idaho Transportation Dept.  
PO Box 7129  
Boise, ID 83707

Dear Mr. Hobday-Sanchez,

I am writing to tell you of my dismay that we are, again, faced with the very unfortunate aspect of the megaloads running along beautiful Highway 12. I have been a citizen of North Idaho for 45 years. That area was a favorite place of our daughters, growing up in our gorgeous, natural state. Now, as a senior citizen, I am more certain of our need and obligation to protect the unique and, still quite pristine, Lochsa River region.

Please do not allow the megaloads to spoil our land.

Sincerely,

Sara Holup (Sara Holup)  
534 N. Eisenhower

Moscow, ID 83843

member, Great Old Broads for Wilderness