

# INTRO PROGRAM 2020

## SELF-GUIDED FIELD TRIP ON PEOPLE & PLACE

Curated by Law Professors Monte Mills,  
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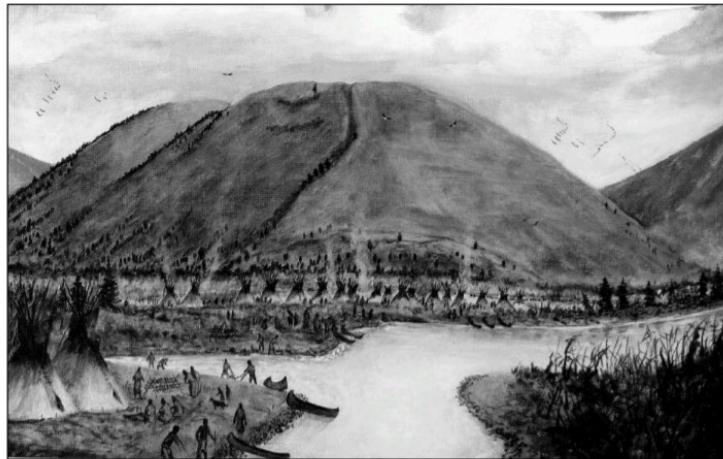


Figure 3.4. Looking east at the confluence of Rattlesnake Creek and Clark's Fork River [Clark Fork] in Missoula, Montana; Mt. Jumbo in the background. Painting by Tony Sandoval, 2003 (Salish-Pend d' Oreille Cultural Committee et al. 2005:48).



*From Archives & Special Collections, Mansfield Library, The University of Montana-Missoula*

### Background & Assignment

ABIII Law has a rich history of incorporating place-based learning into the study of law, including the areas of Indian law and natural resources law. Our region and the peoples in it are just as much a part of our classroom as anything existing inside a casebook or a building. Within the boundaries of what is now Montana are a wealth of public lands and resources, along with [seven](#)

reservations, eight federally recognized Indian tribes, and the permanent homelands of eleven tribal groups. The flags of these tribal nations are displayed on the second floor of the law school and their tribal seals are engraved in the exterior of the Payne Family Native American Center, located on the campus oval.

With those touchstones in mind, we invite you to **visit at least three places on this itinerary and learn as much as you can about the story of that place and its associated peoples before the beginning of the Intro Program**. Ask yourself “How has the law shaped this place and peoples’ relationship to it? And how have peoples and this place shaped the law?”

Answer the question prompts we have provided, but don’t stop there. Be curious. Dig up any other information you can find. And bring a critical eye to any accounts and narratives that you encounter. We are not trained historians and acknowledge that historical accounts, even those deemed reliable, are fallible and may not capture all the experiences or perspectives of the peoples involved. History, like law, remains a contested space. You will be sharing your discoveries, thoughts, and reactions in small groups during the Intro Program.

A couple of caveats: While we would ordinarily encourage you to venture out of Missoula to visit the remarkable tribal homelands and public lands across Montana, we ask you to refrain from doing so during covid19 for the safety of tribal and other communities. Also, if you are participating from another place, you should prepare your own itinerary with at least three stops located in your home community.

### **Itinerary (with miles from Campus)**

[1] Ntl̄ay(c̄stm-Higgins Bridge / Forced March of the Bitterroot Salish (1 mile) .....	3
[2] Free Speech Corner / Red Light District (1.25 miles) .....	5
[3] The M / Glacial Lake Missoula / Salish Encampment Overlook (1.25 vertical miles).....	6
[4] “Road to the Buffalo”/ Hellgate Canyon to Interpretive Sign (4 miles).....	7
[5] N?ayc̄stm-Place of the Big Bull Trout / Milltown State Park (6 miles) .....	9
[6] Rattlesnake Creek Dam Removal Site/ Wilderness Area (4.5 miles) .....	12
[7] Fort Missoula / Former Internment Camps (4 miles) .....	14
[8] Člmé-Council Grove / Signing of Hellgate Treaty (10 miles) .....	16
[9] Tmsm̄lī-Traveler’s Rest State Park (11 miles) .....	18
[10] K’useyneisskit-Naptnišá-Lolo Pass / Nez Perce Trail (44 miles) .....	20

## 1. Nt?ay(c̄stm - Higgins Bridge / Forced March of the Bitterroot Salish

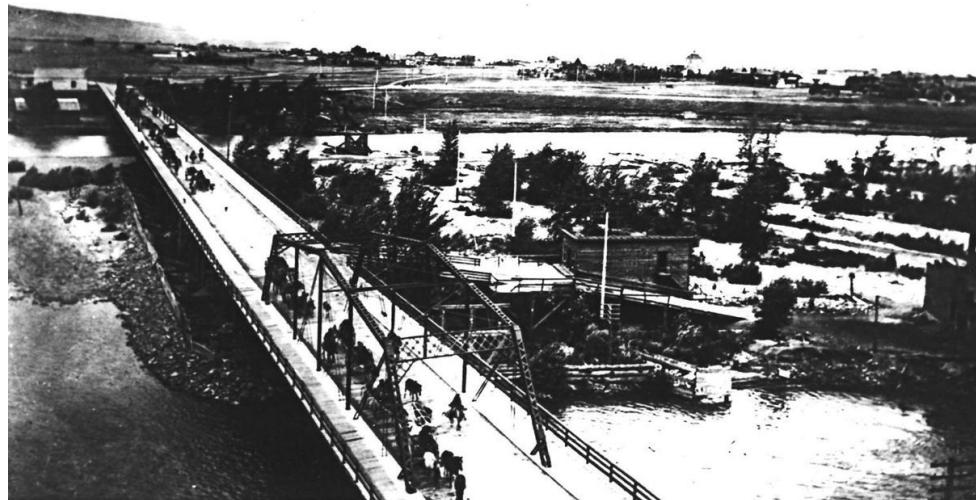


Photo Courtesy of St. Mary's Mission



This photo was taken October 15, 1891, the day the Salish began their march from the Bitterroot Valley. Chief Charlo's wife and daughter sit in front of the tipi at right. As the Salish left, crowds of white settlers stood silently watching. Mary Ronan, wife of Flathead Reservation agent Peter Ronan, wrote in her diary that Chief Charlo "bore himself with reserve, dignity, and pride . . . like a king in exile." Montana Historical Society – Montana: Stories of the Land

*Read for Background:*

- Missoula Current, [\*Advocates look to rename Higgins Avenue bridge in consultation with Salish\*](#) (Feb. 6, 2020)
- Missoulian, [\*Salish to walk back to the Bitterroot to commemorate 125th anniversary of their banishment\*](#) (Oct. 12, 2017)

*Do and Ponder:* Stand on the bridge and face east into Hellgate Canyon. Compare your view to the view depicted on the opening page of this handout. The Higgins Bridge spans the Clark Fork River. How did the bridge and the river get their names? What other names do they have? If you were renaming the bridge to reflect other cultural values, how would you go about selecting a new name?

To your right will be an irrigation ditch system that runs into the farmlands west of Missoula and south into the Bitterroot Valley. You can spot the ditch if you walk the river trail (south side of river) as it parallels the campus soccer field. If you continue down this trail you will be across from the confluence of Rattlesnake Creek and the Clark Fork River, just after the Double Tree Hotel, and there is an interpretive sign about the creek on the river trail. The Salish Name for this place, especially the confluence, is Nł̄ay(cčstm) (The Place of the Little Bull Trout). The ditch system belongs to the Missoula Irrigation District, and was first constructed in 1880. The original water right filing for the ditch claimed 5,000 miner's inches of water from the "Hellgate River." What events ushered in the appearance of this ditch and its accompanying water rights claim? How does this water rights claim affect the Salish aboriginal right to water as well as their treaty reserved right to harvest fish at this location? What values were reflected in these introduced irrigation activities and what pre-existing uses and values were present beforehand?

## 2. Free Speech Corner / Red Light District



Elizabeth Hurley Flynn of the IWW

*Read for Background:*

- A Resolution of the Missoula City Council Supporting the Placement of a Historic Marker Near the Site of the First Free Speech Fight on the Corner of Higgins Avenue and West Front Street and Supporting Placement of a Historic Monument to the Event at a Suitable Site in Missoula
- Kim Briggeman, Missoulian, [\*Missoula witness to history of Industrial Workers of the World\*](#) (Sept. 7, 2009)
- Jim Harmon, Missoulian, [\*1917 brought an end to Missoula's houses of prostitution\*](#) (Mar. 30, 2019)

*Ponder and Do:* From the Higgins Bridge you can easily walk to the corner of Front and Higgins, where you will arrive at the historic Florence Building, which is also the location of an important free speech event spearheaded by the Industrial Workers of the World. What role did Elizabeth Hurley Flynn play in this historic event? How did this event shape the way people viewed free speech rights and the police? On February 7, 2011, the National Park Service officially added Free Speech Corner to the National Register of Historic Places. What legal grounds were provided to qualify it for listing?

Both Higgins and Front Street are fun downtown areas to explore for food and local shopping, and when you head down Front Street, be sure to find the historical marker describing its former life as the “red light district” of the city. What role did gender and the police play in this area of the city?

History and culture are features classified as part of the “environment” under federal laws such as the National Environmental Policy Act. Why would they be considered part of the “environment”? Compare how these historical events and places have been documented compared to the historical events and places for the Road to the Buffalo (Stop #4).

### 3. The M / Glacial Lake Missoula / Salish Encampment Overlook



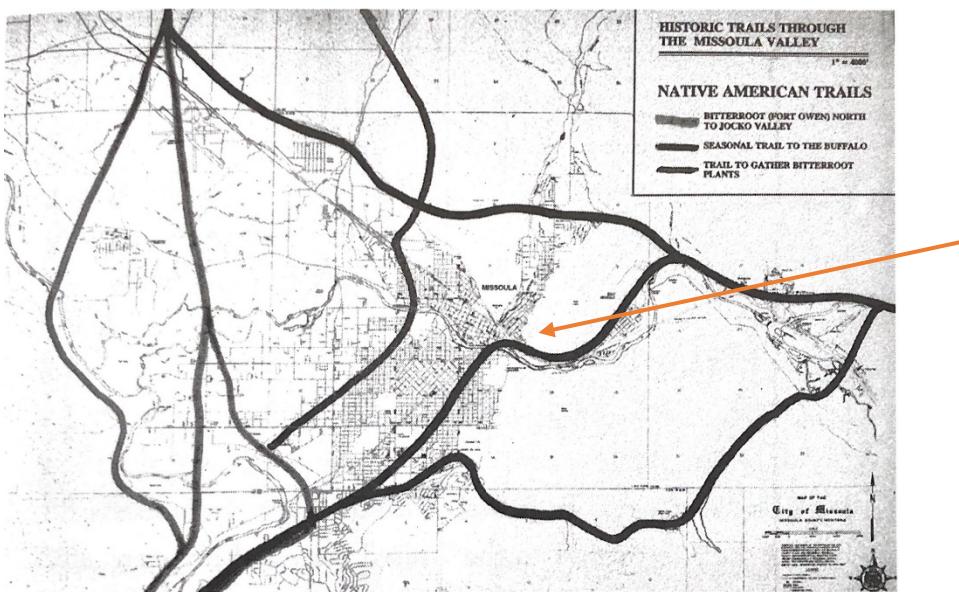
Strandlines (ancient lakeshores) on Mt. Jumbo/ NPS photo

*Background:* As you hike your way up the M trail, located on Mt. Sentinel, you are ascending one side of the lakebed of former Glacial Lake Missoula. If you observe some mountainsides in the Missoula Valley from a distance you can discern traces of the past lake levels impressed as vertical lines upon the land. In MONTANA: STORIES OF THE LAND, the lake is described as a “dramatic example of how glaciers can change the landscape. Ice formed a dam across the Clark Fork of the Columbia River that backed up most of the streams and rivers of western Montana. These waters created a 1,000-footdeep lake that covered 3,000 square miles. Its highest shoreline was just over 4,250 feet above sea level. When the ice dam broke, it released a catastrophic flood. It shot 500 cubic miles of water down the Clark Fork and the Columbia River gorge, carving the scablands of eastern Washington and helping to create the scenic canyons of the Columbia Gorge. Geological evidence shows that Glacial Lake Missoula filled and emptied in such a catastrophic style at least 36 times over 1,000 years.” According to Tony Incashola, Director of the Selis & Qlispe Cultural Committee, tribal memory dates back to the last ice age and includes stories of this lake.

Rumor has it that the “M” first appeared in 1909 when Forestry students hauled rocks up the mountainside and whitewashed them. Gotta watch those Forestry students—especially around the time of the Forester’s Ball. They may pull some shenanigans in our own building.

*Ponder and Do:* When standing at the M, you are overlooking a place of historical encampment for tribes gathering bitterroot throughout the valley. See if you can spot a photo commemorating these encampments inside the law school. Do you think the people in the photo are tribal members, non-tribal members, or some combination of both? How can you tell? What do you think the photographer was attempting to capture in this photo? Where does the law school currently sit in relation to the photo?

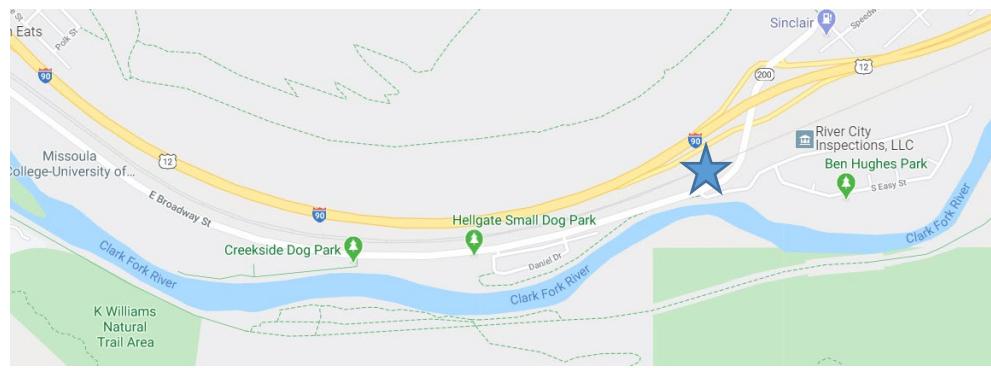
#### 4. “Road to the Buffalo”/ Hellgate Canyon to Interpretive Sign



Montana's Indian people harvested the land and traveled through the Missoula Valley long before white settlement. Major routes included trails east to hunt buffalo, trails into the valley to harvest bitterroot, and routes connecting the Bitterroot and Jocko Valleys. AJM – A Guide to Historic Missoula

*Background:* "Road to the Buffalo" was one name regional tribes gave to certain routes that led to the common hunting ground over Smítu Sxʷcuʔsí (the Continental Divide) to the eastern plains. This hunting ground was once protected and set apart by the 1855 Blackfeet Treaty. Part of that route followed the Clark Fork River, through Hellgate Canyon, before stretching up the Blackfoot River, essentially following the pathway of Highway 200. Capt. Meriwether Lewis and nine soldiers are believed to have followed this trail on their return trip of discovery in 1806, with Lewis' Newfoundland, Seaman. A century later, the Big Blackfoot Railroad came steaming up and down the canyon, hauling lumber to the Anaconda Co. Mill in Bonner. What now stands at the old mill site? If you have not been there, we encourage you to drive there and see one of the last remaining historic logging town sites in the country. It is close to Stop #5, the Milltown Dam Overlook.

*Do and Ponder:* Walk a section of the historical trail along the north side of the Clark Fork River as it winds through residential development. (If you are so inclined, grab a beverage at Drum Coffee. You can park in the Hellgate small dog park and walk the 0.5-mile trail section on foot).

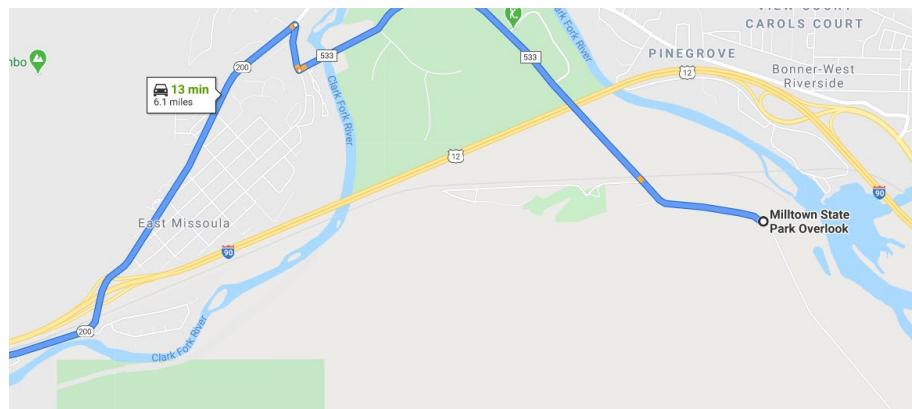


What might this area have looked like before it became developed by these land uses? Who decided how these lands could be used? Be sure to find the wooden interpretive sign located on the trail, right next to the Lewis & Clark historical marker (denoted with a star). Who do you think wrote the content of this sign? Fact check its statements. Are we doing an adequate job of capturing the significance of this area?

## 5. N?ayc?stm - Place of the Big Bull Trout / Milltown State Park



From Stop #4 you can continue down Hwy 200 to the Milltown State Park Overlook. The route turns onto Speedway Drive and then Deer Creek Road:



*Read/Watch for Background:*

- Check out [this short movie](#) discussing the history and removal of the Milltown Dam. The movie was made by the U.S. Environmental Protection Agency.
- Review [this storyboard](#) about the confluence of the Blackfoot and Clark Fork.
- Read [this blog](#) from the Clark Fork Coalition, a Missoula-based non-profit that was instrumental in the removal of the Milltown dam.
- If you have time, we highly recommend [The Richest Hill](#) podcast, which chronicles the storied past of the Copper Kings and takes the listener through the most recent Superfund developments.

The confluence of the Blackfoot and Clark Fork Rivers, just east of and upstream from the UM campus, is a place where many histories of Montana converge. In addition to an important traditional connection between indigenous groups across the northwest and the buffalo hunts of the plains [see “Road to the Buffalo,” Stop #4], the place is also known by the Salish as N?ayc?stm (the Place of the Big Bull Trout). Beyond these legacies, the use of rivers, timber, and the earth as natural resources brought different impacts to the confluence. As one example, the construction of Milltown Dam helped facilitate timber

mill operations in Bonner and Milltown, with thousands upon thousands of logs floated down the rivers to be milled.

With the extensive mining and milling of copper upstream in Butte and Anaconda, toxins released into the rivers found their way downstream to Milltown Dam, especially during the record floods of 1908 and 1996. Finally, with the birth of the modern environmental movement in the Twentieth Century, the area became the center of a new story, this one focused on its designation as a Superfund site under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which Congress passed in 1980—partly in response to the immense environmental degradation caused by mining in this area. CERCLA provides a legal framework for cleaning up and remediating areas where such damage has occurred and seeks to hold the parties who contaminated these places responsible. In addition, those damaged by the pollution—like states, local communities, and, as in the case of the degradation of the Clark Fork, Indian tribes with treaty reserved or traditional rights in the area's resources—can potentially recover financial damages from the process. While CERCLA clean up processes are often lengthy, high-conflict, and immensely complex (in fact, the clean-up of the Upper Clark Fork portion of the site continues), the removal and restoration of the area formerly known as the Milltown Dam is an important demonstration of how the law can result in significant change to the landscape.

*Ponder and Do:* As you look over the Clark Fork River running through its recently restored basin, consider what this area would have looked like at various points in its history. How would the view have been different before the arrival of outsiders, when indigenous people sought the big bull trout or traveled to the buffalo? What about at the height of the lumber milling operation across the valley and during the heyday of the copper kings? And, looking at it now, can you see these histories and stories present in the landscape? How well has the CERCLA/Superfund process worked? Is the area truly recovered? What about the industries that caused the environmental damage and the hundreds or thousands of workers who made their living from them? How do you think they might view this changed landscape?

If you have a moment, please feel free to hike down to the river's edge and explore the state park. Across the Clark Fork, you'll probably see a number of folks preparing to tube or float down the river as the recently opened parking lot and river access has [become quite a popular put-in place](#). Keep your eye on the sky too, as ospreys, bald eagles, and hawks frequent the area as well. As you do, you might gaze across to Milltown and think about the following poem, written by [former UM professor and poet Richard Hugo](#):

The Milltown Union Bar  
*for Harold Herndon*

(Laundromat & Cafe)  
You could love here, not the lovely goat  
    in plexiglass nor the elk shot  
    in the middle of a joke, but honest drunks,  
    crossed swords above the bar, three men hung  
        in the bad painting, others riding off  
        on the phony green horizon. The owner,  
            fresh from orphan wars, loves too  
        but bad as you. He keeps improving things  
            but can't cut the bodies down.

You need never leave. Money or a story  
brings you booze. The elk is grinning  
and the goat says go so tenderly  
you hear him through the glass. If you weep  
deer heads weep. Sing and the orphanage  
announces plans for your release. A train  
goes by and ditches jump. You were nothing  
going in and now you kiss your hand.

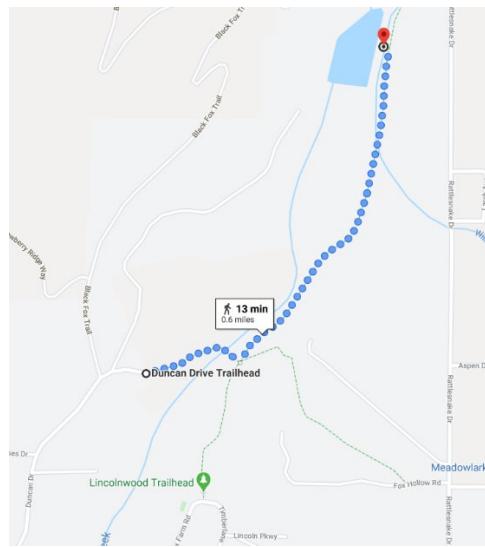
When mills shut down, when the worst drunk  
says finally I'm stone, three men still hang  
painted badly from a leafless tree, you  
one of them, brains tied behind your back,  
swinging for your sin. Or you swing  
with goats and elk. Doors of orphanages  
finally swing out and here you open in.

## 6. Rattlesnake Creek Dam Removal Site / Wilderness Area



Photo courtesy of Trout Unlimited

You can reach the Rattlesnake Creek Dam overlook and interpretive display from either the Duncan Drive or Lincolnwood Trailheads, and the hike is a little over 0.5 miles from either trailhead.



*Read for Background:*

- Rattlesnake Creek Watershed Group, [Rattlesnake History](#)
- Trout Unlimited, [Rattlesnake Creek dam coming down](#) (Sept. 13, 2017)
- [Rattlesnake Creek Dam Removal Project—Draft EA \[skim\]](#)

*Ponder and Do:* Like the Milltown Dam, the Rattlesnake Creek Dam has its beginnings in the settlement and development of the local area by non-Indians in the late 1800s and early 1900s. Although the area was traditionally inhabited by Salish and other indigenous peoples, the arrival of homesteaders resulted in the development of the region and the corresponding need for water. By 1860, ditches running from Rattlesnake provided water for Missoula and for the local sawmill. Within a decade, a wooden pipeline was constructed to run from the area near where the dam sits to Waterworks Hill (also a great place for a quick hike near campus). Soon, more work was done to provide additional water, including identifying lakes higher up the Rattlesnake drainage and building ditches to convey water into Rattlesnake Creek. Eventually, in the early 1900s, the Montana Power Company constructed a series of dams on lakes high up in the mountains—in what is now the Rattlesnake Wilderness Area—to control and convey water to and through the Creek. The Rattlesnake Dam was originally constructed in 1901 as an earthen berm and was reconstructed in 1924 as a concrete dam and diversion works. It provided Missoula with water until 1983, when the supply was contaminated with *Giardia* and the primary local water supply was switched to groundwater.

As the draft environmental assessment (on the last website listed above) prepared for the proposed removal of the dam notes:

The 15 miles of creek above the intake dam support resident populations of native bull trout (*Salvelinus confluentus*), a species listed as Threatened under the federal Endangered Species Act, and native westslope cutthroat trout (*Oncorhynchus clarkii lewisi*); both are state Species of Concern (SOC).

Thus, to help these species and to restore the natural riparian areas associated with Rattlesnake Creek, the City of Missoula, along with Trout Unlimited and Montana Fish Wildlife and Parks, proposed removing the dam after acquiring it in 2017. Why do you think that assessment was done and what is its benefit to the proposal?

As you look over the dam and Rattlesnake Creek, consider the growth and development of Missoula and how the interests of the area's residents have changed. How did the area's indigenous inhabitants use and rely on its resources? What about homesteaders and early non-Indian arrivals? How about now – what seem to be priorities regarding the water, wildlife, and wilderness of the area? Consider whether and how both the law and the landscape could or have changed to fit those evolving priorities.

## 7. Fort Missoula / Former Internment Camps



Lt. Moss rides alongside the men of the 25th.

- HARALD HANSEN/PUBLIC DOMAIN

*Read for Background:*

- Black Past, [25TH INFANTRY BICYCLE CORPS \(1896-97\)](#)
- HMFM, [Fort Missoula Alien Detention Center](#)

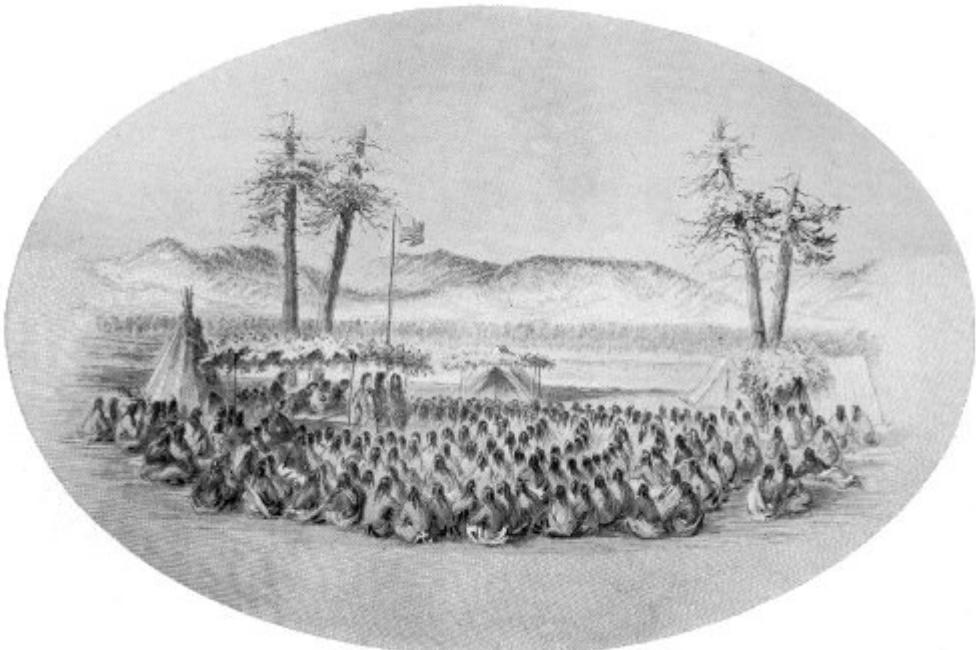
*Ponder and Do:* Fort Missoula, which is accessed off Reserve Street, became a permanent military post in 1877, and its original purpose was to protect townspeople and settlers in the event of conflict with area tribes. Look up how this Fort is connected to both the Battle of the Big Hole and Lolo Pass (Stop #10). Although the buildings are currently closed due to covid19, the website for [Historical Museum at Fort Missoula](#) provides an overview of the rich and storied history of a place that touches on tribes, the African American 25th Infantry Bicycle Corps, forestry practices, and the housing of Japanese and Italian prisoners of war during WWII.

For this stop, you should locate the “alien detention center barracks” on the Fort’s [walking tour map](#). Who were the people detained in these barracks? How many were there? What were their living conditions like? What happened to them after their release? Are there any parallels between these barracks and

other types of internment facilities that exist today? Missoula is now a designated refugee receiving city and there are service opportunities for those interested in training and working with refugee organizations.

Amazingly, the historical Bitterroot encampments (Stop # 3) and the Missoula Irrigation District ditch (Stop #1) reached across the valley floor and past Fort Missoula.

## 8. Člmé - Council Grove / Signing of Hellgate Treaty



From THE LIFE OF ISAAC INGALLS STEVENS

*Background:* In 1855 the Hellgate Treaty was negotiated between Isaac Stevens, on behalf of the U. S. government, and the Salish, Kootenai, and Pend d'Oreille Tribes. This treaty created the Flathead Reservation located north of Missoula. Read more about the treaty [here](#). The Salish names for this place are Člmé (Tree Limbs Cut Off) or Ncxʷotew̄s. Because tribes are sovereign nations, diplomacy was expected in treaty negotiations. Read this entry and consider whether the tribes' expectations were met in Stevens' approach:

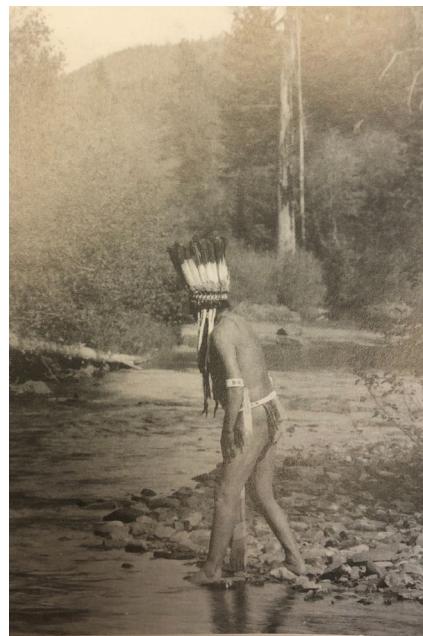
On the 21st we held our talk with the Blackfeet. The chiefs and warriors were all richly caparisoned dresses of softly prepared skins of deer, elk, or antelope were. Their elegantly ornamented with bead-work . . . leggings made of buffalo skins, and moccasins, also embroidered, and a breechcloth of blue cloth. On all solemn occasions, when I met the Indians on my route, they were arrayed with the utmost care. My duties in the field did not allow the same attention on my part, and the Indians sometimes complained of this, saying, 'We dress up to receive you, and why do you not wear the dress of a chief?'

—ISAAC STEVENS, SEPTEMBER 1853

*Ponder and Do:* Council Grove is located off Mullan Road west of Missoula. Once there, find the interpretive signs describing the Hellgate Treaty. What rights did the Tribes retain? What did they lose or give up? Why do you think the Tribes entered the treaty if it meant they were relinquishing rights? Do you think all three tribes wished to be located on a common homeland? In THE LIFE OF ISAAC INGALLS STEVENS, his grandson writes that "This treaty, like all made by Governor Stevens, was remarkably liberal in its terms to the Indians." Do you agree or disagree? Are all provisions of the treaty still honored by the federal government today? Hint: How does this location connect to the story of the Higgins Bridge (Stop #1)?

This area contains large, old-growth ponderosa pines and cottonwoods and trails, and is a nice location for a picnic and some fishing. You may spot a great blue heron or other aquatic and wetland wildlife along the Clark Fork River.

## 9. Tmsm̄tí - Traveler's Rest State Park



Salish elder Sam Resurrection at Tmsm̄tí c. 1915

From THE SALISH PEOPLE AND THE LEWIS AND CLARK EXPEDITION



*Read for Background:*

- Montana State Parks, [Travelers' Rest](#)
- Travelers' Rest Preservation & Heritage Association, [Native American Cultural History](#)

*Ponder and Do:* This site is located on Lolo Creek, not far from the confluence of the Bitterroot River, which the Salish call Tmsmłí (No Salmon). The Salish history contains this place description:

*"It was a favorite hunting area, especially for deer, and the people would move there for that purpose in the spring."*

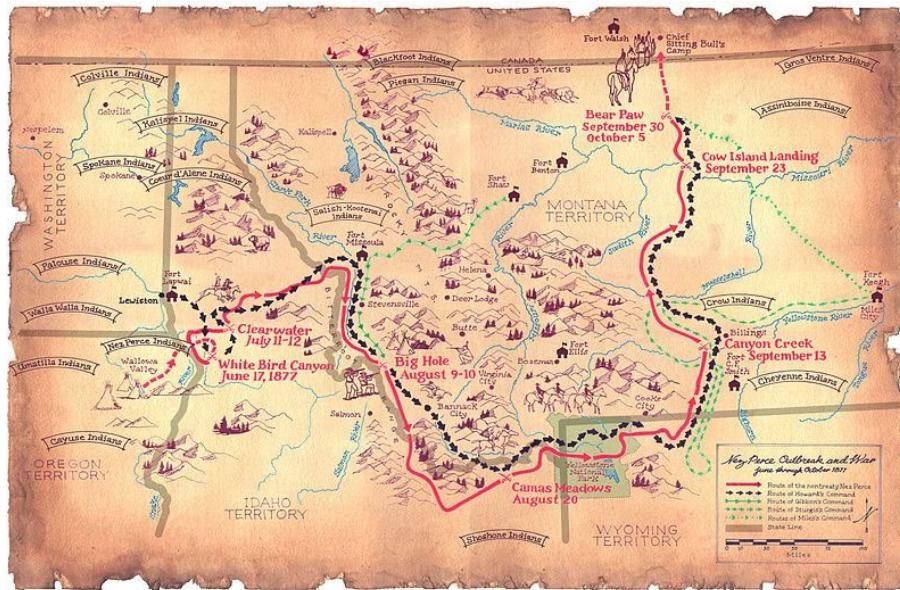
- THE SALISH PEOPLE AND THE LEWIS AND CLARK EXPEDITION

Meriwether Lewis' journal entries for this place note ponderosa pines stripped of bark—a Salish practice to “procure the sweet inner cambium layer of the bark for food.” *Id.* This place was also known for its numerous edible and medicinal plants.

Check out the visitor's center and [walk the grounds](#) of this Lewis & Clark Campsite. This site has a great picnic spot if you hit it at lunch time. Fun fact: This is the only archaeologically verified campsite of the Expedition, which required archaeologists to prove its historical significance by a “preponderance of the evidence” under the law. Second fun fact: this state park was relocated because the original park was put in the wrong location! #questionhistory

Notice the “Corps of Discovery” commemorative marker placed in the park (featured in photo). Is the use of the word “discovery” an appropriate one? How well does this park tell the story of before Lewis & Clark’s arrival? What was the significance of this place before that time? What peoples had relationship to this place? How does the story of this place connect with Lolo Pass (Stop #10)?

## 10. Naptnišá and K'useyneisskit - Lolo Pass / Nez Perce Trail



*Read/Watch for Background:*

- [NPS, Lolo Trail and Pass History](#)
- [Nakia Williamson](#), Cultural Resources Program Director, Nez Perce Tribe, discusses the traditional lands and place names of the Nimiipuu, as well as the origin of the appellation "Nez Perce."
- [Forest Service, Nez Perce National Historic Trail](#)

*Ponder and Do:* The summit of Lolo Pass marks the Idaho-Montana border and the boundary of the Pacific and Mountain time zones. It is also an important geographical dividing line between the traditional territories of the Salish, who lived throughout what became known as the Bitterroot and Clark Fork valleys and the Nimiipuu or Nez Perce, whose traditional and continuing territory spanned what is now northern Idaho, northeastern Oregon, and southwestern Washington. Both groups have oral histories of the Lolo Pass area and its use as a trail to travel between their respective traditional territories. In fact, the Salish name for the trail is Naptnišá, or "Trail to the Nez Perce." The Nez Perce call it K'useyneisskit (Road to the Buffalo).

In 1877, Lolo Pass also became the escape route of Chief Joseph, Looking Glass, and their band of Nimiipuu tribal members as they sought to escape from U.S. forces and ally with the Crow or make it to Canada. You might have seen signs for "Fort Fizzle" on the way up the pass – what was "Fort Fizzle" and why did it get that name? What was the basis of the conflict that led the Nimiipuu to leave their homelands? Why was the tribe mis-named Nez Perce or Pierced Nose? What was their true name? How far did their original territory extend? What animal is part of their ancient stories?

Lolo Pass is a beautiful, high alpine area, surrounded by excellent hiking and, in the winter, fantastic Nordic skiing and snowmobiling. There is an interesting interpretive center that you can visit and, by heading down the other side of the pass, you'll quickly gain an hour (hello Pacific time zone!!) as you enter Idaho and Nez Perce Country. The Lochsa and Clearwater rivers, known in Salish as Snttmčqey (it has salmon),

accompany the gorgeous drive down Highway 12 and provide amazing whitewater for kayaking and rafting.

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