

**Steens Mountain Advisory Council  
Recreation and Visitor Use Subcommittee  
February 13-14, 2020 Summary Minutes - FINAL**

The Recreation and Visitor Use Subcommittee of the Steens Mountain Advisory Council (SMAC) met February 13-14, 2020, in Bend, Oregon. In accordance with the provisions of Public Law 92-463, the meeting was open to the public. This document summarizes attendance, discussions that occurred, and decisions made. For the record, it is noted that to avoid any conflict of interest, Council members absent themselves from the meeting when the Council discusses matters in which a conflict of interest may occur.

**February 13, 2020**

SMAC members in attendance

- Ruthie Danielsen, Private Landowner Representative
- Eric Hawley, Burns Paiute Tribal Representative
- Rod Klus, Oregon Department of Fish and Wildlife and State Liaison to SMAC
- Fred Otley, Grazing Permittee Representative
- Pete Runnels, Commercial Recreation Permit Holder Representative
- Terry Turner, Fish and Recreational Fishing Representative

SMAC members absent

- None

Vacant SMAC positions

- Environmental interests for the State as a whole Representative
- Environmental interests from the local area Representative
- Grazing Permittee Representative (two positions)
- Mechanized/consumptive recreation Representative
- No financial interest in the CMPA Representative
- Wild Horse and Burro Representative
- Dispersed Recreation Representative

Members of the public

- Rand Campbell, Silvies Valley Ranch
- John F. Helmer, formerly Dispersed Recreation Representative, volunteer caretaker at Riddle Brothers Ranch
- Normandy Helmer, volunteer caretaker at Riddle Brothers Ranch
- Jake Jakubik, volunteer caretaker at Riddle Brothers Ranch
- Teresa Wicks, Eastern Oregon Field Coordinator, Portland Audubon
- Kali Wilson, formerly Grazing Permittee Representative
- Ryan Houston, Oregon Natural Desert Association (Thursday only)
- Mark Salvo, Oregon Natural Desert Association (Thursday only)
- Bill Marlett, Oregon Natural Desert Association, Senior Conservation Advisor (Thursday only)
- Karen Withrow, volunteer caretaker at Riddle Brothers Ranch
- Stacy Davies, Roaring Springs Ranch (Thursday only)
- Elaine Davies, Roaring Springs Ranch (Thursday only)

BLM

- Tara Thissell, BLM, Public Affairs Specialist
- Jeff Rose, BLM, Burns District Manager and Designated Federal Official
- Don Rotell, BLM, Andrews/Steens Resource Area Field Manager

- Wendy Rickman, BLM, Range Rider (Thursday only)
- Dory Seeley, BLM, Outdoor Recreation Planner (Thursday only)

## Housekeeping

### Agenda:

Tara went over the agenda and reminded everyone that public comment would be at 3:30.

### Materials:

- Agenda
- Wilderness/WSA handouts
- Terry's slide show presentation with maps of Page Springs area and Malheur Basin
- Packet about reasonable use (John also sent by email)
- Kyle's slide show update
- Minutes from previous meeting
- Full schedule of events for festival weekend
- Copy of the Steens Act
- Handout on Nature's Advocate's inholder access
- Status report for the CMPA
- Steens Mountain Advisory Council meeting protocols

Tara added that there were audience protocols available by the door. She asked everyone to please eliminate side conversations and, if they want to address the council, wait for the public comment period or talk to her or Jeff and they'd see if they could fit them in.

Nomination Status: John is sitting in a currently vacant position. He was the Dispersed Recreation Representative, an appointment that expired in December. He applied for reappointment in June, and his application has been pending since that time.

Burns District received word that Kali has been reappointed to her position, as well as Leon for the Wild Horses and Burros Representative. Burns District hasn't received letters on the reappointments yet, but, supposedly, both have been reappointed. It took about 18 months.

SMAC is in an open nomination period (closing on February 24) for:

- Local Environmental Rep
- State Environmental Rep
- No Financial Interest Rep
- Mechanized and Consumptive Recreation Rep

Dispersed Recreation also had to be advertised, even though there is already an applicant. Keep reaching out to potential applicants. Tara has an application for Local Environmental Rep from Teresa Wicks.

Ruthie said that the Department of the Interior should have a written procedure for the nomination and approval process and asked if Tara had a copy of such a document.

Tara replied that she doesn't but that she has a good idea of the routing. The main hang up is not in the routing, but in the vetting.

Ruthie said that if the SMAC had the written routing/procedure, that would at least give them an idea who to contact so the process could be looked at and some timelines for vetting added.

Terry had an opportunity last week while he was in DC for another meeting with the Undersecretary of Fish, Wildlife, and Parks. He brought up that it's hard for SMAC to fulfill their charter and carry out their role in advising BLM when it takes 18 months to get people approved, and sometimes people get denied with no

explanation. Terry talked with and emailed a representative of the Undersecretary.

Tara said the process has become a lot less streamlined. Locally, Burns BLM used to be able to advertise when the openings were coming up, and now it's on a national schedule and it's twice a year or once a year.

John pointed out that SMAC has not met with a quorum since 2017. They can't make official decisions and constituents are unrepresented. John thinks that at some point SMAC should formally address what the subcommittee is and who's on it.

### **Designated Federal Official Update – Jeff and Don**

**Advisory Committees:** A couple years ago, the government decided to take a look at some of the advisory councils, and Jeff thinks that's part of the reason for the delays in appointments getting made and meeting advertisements being processed. He says it is encouraging that there is movement for the SMAC, some of the RACs are getting no movement whatsoever. Hopefully we're coming out the other end of that evaluation process. "Unfortunately, the field is not always informed of what's going on at the higher levels. We pass anything on that we know. We appreciate your patience."

**Wild Horse and Burro:** There were 375 animals in the corrals as of the end of January. A hundred and thirty-two animals have been adopted. The Burns District is working on a Herd Management Plan for the Kiger/Riddle Mountain herds; it should be out in the next year or so. The District will let SMAC know when it comes out for public comment. Currently, there are no large-scale gathers scheduled for 2020 in Oregon. Burns District does have a need, and it has been forwarded to the National Office.

**Weeds:** Last year Burns District aerielly treated about 30,000 acres of invasive annual grasses on the Steens, in cooperation with Harney County. They also treated about 2200 acres from the ground, working with the Strategic Weed Attack Team (the county team). The agreement with the county is very productive. In the next five years, Burns District hopes to monitor and treat about 150,000 acres; Burns District can't do that without the county and the Department of Agriculture.

**Archaeology:** On July 18, 2020, Dr. Patrick O'Grady, a professor at OSU, will be in Burns and will visit the Rimrock Draw Rock Shelter with his colleagues to answer questions. Possible tour? Rimrock Draw Rock Shelter is one of the older sites that's been found. The radio-carbon dates go back between 17 and 18 thousand years. They're finding bird and large mammal bone fragments and ungulate tooth fragments, which include a Pleistocene bison.

**Grazing:** About two weeks ago, BLM put out a notice of intent that they're looking at updating grazing regulations. This is the initial stage for scoping; BLM is looking for comments. There's a website with information. Four public meetings were set across the United States: Mile City, Montana; Las Cruces (happened last week), New Mexico; Elko, Nevada (on February 18); and Casper, Wyoming (on February 28).

- BLM applies the Taylor Grazing Act and various other acts introduced since through rules and regulations they've developed.
- These rules and regs apply to how BLM administers permits, how they grant permits, and how people apply.
- Scoping ends on March 6.
- An environmental effects statement will be prepared.
- The project is being run out of Boise; in BLM's move west, Boise will be the center for Range.
- Burns District will keep SMAC updated on what's happening.

Disappointment was expressed that there is no scoping meeting in Oregon/Washington or California.

It places an undue financial burden on people who want to be involved to go that far for a meeting. Jeff said that anyone who wants is welcome to come to the Burns District Office to talk about grazing regulations.

Planning/NEPA: Don started working at the Burns District as the Andrews/Steens Resource Area Field Manager in the last months of 2019. He had a meeting with staff in which they set some field office priorities.

In December, the Ninth Circuit Court vacated the decision to renew the Bridge Creek Grazing Permit, and it was sent back to the Secretary of Interior's office. It's been in limbo since then. Burns District is expecting to get some direction soon. Preparing for that has been the Andrews/Steens Resource Area Field Office's (Andrews/Steens F.O.) number one priority. They've been trying to meet once a week to go over the details.

Other than that, they're spending a lot of time working on the Nature's Advocate EA. After that, Don would like to get a decision on the Pike Creek Parking Area EA. Because it involves a stream crossing Don thinks BLM needs to consult with Fish and Wildlife.

Autumn, from the Andrews/Steens F.O. is working on the Alvord Allotment; she's been doing some more consultation with the current permittee, Paul Davis, and getting some input from him.

John commented that the Nature's Advocate EA has been being talked about by SMAC since before he was a member. He asked what Don thinks the timeline looks like for getting a resolution.

Don said the next step is getting the EA out to the public. He hopes to have that done within the next several months. He wants to get the State Office to look at it; there have been some modifications. One of the things that's affected it quite a bit is that our wilderness planner has moved on.

John reminded Don that SMAC would like to have another chance to look at the EA.

Don said BLM's solicitors don't think the draft EA should be shared at this point, but a white paper summarizing the alternatives could be shared with SMAC.

John asked if BLM knows anything new about the status of the travel management plan (TMP).

Jeff replied that Burns District is basically operating under the injunction they've been operating under since 2011. There is some other discussion with the attorneys going on. Don said that basically Burns District is at 2007 level travel management.

John read that BLM launched a new initiative to identify parcels that lack public access, and they're looking for people to nominate/identify parcels of a certain size and then put them forward. He asked if Jeff could say anything about what that might mean for SMAC? John thinks that when it comes time to nominate, SMAC will have ideas of where there is no public access, or no easy public access.

Jeff couldn't give much detail. He offered to research it and return with his findings. He's seen the direction, but it's very broad and nothing has been sent down to Burns District about how they'll be implementing. The Act has a lot of stuff in it. Jeff was at a meeting last week about fire, and there are some issues in there that have to do with wildfire.

Tara said this is called the Dingle Act; she will research/provide more information on it.

Rehabilitation Priorities: Don spoke about the progress made on the Pueblo Pilot Project and, also, on the 14-mile fuel break down the Funnel Canyon Road and mitigation measures. The District operations group had the idea of using a roller to address the edge of the fuel break because it's in a WSA, so the visual appearance of the fuel break is an issue.

One of Don's other goals at is to try to get an integrated program of work going on the District, especially in the Andrews/Steens F.O., where they're working with fuels and wildlife to get projects going in the Steens,

mostly cutting juniper in the North Steens EIS area. Yesterday he found out Burns District will be getting an additional \$380,000 from BLM State Office to get an agreement going again with ODFW. Burns District has had an agreement with them for a while and basically have been working up there to improve mule deer habitat and through this agreement ODFW has been funding the project, so now that Burns District has some money to put up front and they can get the agreement going again and accelerate the treatment there.

Staffing: Other than that, Burns District has been doing a lot of hiring, onboarding, and new employee orientation. Currently vacant positions include: wilderness planner, NEPA planner (soon), realty specialist, and range rider (Wendy is on a temporary basis). Burns District hired a riparian specialist (Alec Barber). They also have a new range management specialist named Natalie Martin; she's taking over Rick Knox's allotments, and he is shifting to the Steens.

## **Recreation 2019 - Kyle**

Usage on the Steens:

- Trail counters and vehicle counters
- 13,103 users on trails - estimate may be low due to a faulty counter on the Blitzen River Trail that had to be replaced.
- Vehicle counters: 27,541.
- The counters indicate trends.
- The powerpoint presentation will be put on the SMAC site.
- 7816 camp visits. Due to it being open year-round, Page Springs was the most heavily visited.
- 17 special recreation permits
- 22 winter recreation permits. Tara explained winter rec permits.
- \$43,765 in campground fees received (recycled back into the Recreation program's future projects).
- Economic impact to local economy - 4 million dollars.

Comprehensive Recreation Plan:

- Kiger overlook – parking area expansion
- Threemile canyon – expanded parking area and map kiosk
- Ongoing trail work

The BLM relies on help from volunteer groups (ONDA (1600 hours) and the Northwest Youth Corp (1400 hours)) to maintain trails.

Projects that use Funds Collected:

- Vault toilets at Fish Lake and Page Springs
- 2020 fence replacement at South Steens campground
- 2020 fee box replacements
- Looking at an ADA accessible trail at Kiger overlook.
- North Steens equestrian campground – water issue. Drilling has been done (450 ft.) but water hasn't been reached.
- Desert Meadows Trail project is on the backburner (funding dependent). • Planning maintenance of Little Blitzen Trail, Fred Riddle Trail, and Threemile Canyon.

John commented that visitors have told him the Fred Riddle Trail is pretty rough; it's certainly not ready for horses.

Kyle replied that the Rec Department looks at conditions and tries to take care of those in the worst condition first.

As the recreation representative, John thinks it's important to go back to the rec plan and see what's in the plan and look at what has been done, what hasn't been done, what is unachievable, and what is the current state of things. He thinks it helps all of us to know what's in there, keeping it as an active, working

document.

John said four Riddle Brothers Ranch caretakers were present at the meeting. He asked if they have any input on that area. John said there's a stewardship move among the caretakers to help advise about preservation and interpretation. It's in its early stages. They have an email list.

John asked about the timeline for the Penland Horse Camp and reminded BLM that the Stroemples, a neighboring landowner, would like to be included in any discussions about design, etc.

Ruthie asked for more details about the well drilling. Jeff said that at 600 feet he will start asking questions.

### **Reasonable Access**

John presented some background about how SMAC came to draft a reasonable access document. For future revisions, he thinks editing it as a group would be tough with so many people. He would prefer to hear SMAC comments and the public's comments and then make revisions with a subcommittee that would then bring it back to SMAC for review. The draft went out to the constituencies for feedback in October, with a January 31 deadline. A number of individuals submitted substantive feedback.

Terry said the bottom line is how do we cooperate? How do we make it work?

Fred apologized for not spending the time to help build the document. He said that "reasonable" is a combination of historic, current, and future use. He feels that the reason this conflict exists is, in some situations, there's been a poor job of fully vetting—looking at the historical use on and access to the inholdings.

Ruthie expressed her appreciation of all the feedback from the constituents. As a private landowner, she agrees that historically all the current inholdings had access routes. She said the inholdings weren't inholdings until the Steens Act. Now they're inholding and surrounded. She agrees with George Stroemple's note that says that the council should not try to determine reasonable use but rather include any use that complies with local land use laws, permits, building standards, etc. as reasonable. Those chunks are private property. There's an investment a person made to have that chunk of land, and was it accessed before? Probably. Mr. Stroemple respectfully suggested that more definitions could be added to the document. He agrees with the SMAC that, consistent with the Steens Act, current and historical context relating to the kinds and character of access are relevant factors; however, ultimately, the reasonable access issue should turn on the access reasonably necessary to accomplish the reasonable use. In other words, this should be a two-step process. Step one to determine whether the proposed use is a reasonable use. Then step two to determine the kind of access reasonably necessary to accomplish that reasonable use. Ruthie thought that was well stated and could be incorporated in SMAC's document.

Another opinion submitted was that if the access didn't exist at the time the Steens Act was enacted, then it shouldn't be allowed. Ruthie spoke about the language of the Act and whether the Steens Act supersedes the Wilderness Act. Ruthie went to Walden's office and the Department of the Interior (DOI) and got documents from the hearing on July 18, 2000; she still has more documents to go through. As she gets documents she can put on SMAC's shared site, she will so the council members can read some of the original testimonies and discussions.

People's memories change sometimes; Ruthie likes to go back to the original documents of what was said back then. She also mentioned that the Steens Act said a road could be built or modified to protect the environment. The existing route is pretty steep, it goes across a creek; some of the options in the EA were to not do as much damage. If the same route was kept, more damage might be done than if the route was moved to a different location to protect the environment.

Further discussion about reasonable access took place between the council members. John summarized opinions expressed in the previous meeting by the public and in solicited feedback from the public. He presented five questions for discussion that he thinks might improve the reasonable access document:

1. How should SMAC interpret Subsections 122(a) and (d)?
2. Can building a road be seen as protecting the environment if it replaces another road?
3. Do reasonable and adequate mean the same thing?
4. Is the Steens Act primary or do we have to equally fulfill/follow both Acts?
5. The statement about the current character and uses of the land that we have to preserve – does that refer just to the parcel in question, or broadly, the CMPA lands? Are we trying to fulfill that question of character?

John thinks the next step is for a few people to take the document, work on it and bring it back to the group. It could be useful if SMAC deals with future issues, too.

1st Question: John quoted Section 122(a), “Development on public and private lands within the boundaries of the [Cooperative Management and Protection Area] which is different from the current character and uses of the lands is inconsistent with the purposes of this Act” and (d), “Nothing in this Act is intended to affect rights and interests in real property or supersede State law.” He said these could be read as being in conflict.

Ruthie read a quote from Kitzhaber from the congressional meeting in D.C. on July 18, 2018. “The Steens Mountain area is the home to rich, valuable Oregon culture. From the ancestors of the Burns Paiute Native American Tribe to the family ranches of today. The Steens Mountain area has cultural, historical, and economic value. We must not lose this value. We must diligently safeguard the existing culture and way of life on the mountain, and if we do not, we will surely diminish all critical values of the mountain: Its ecological, its culture, and its people.” Kitzhaber’s goal is to keep the Steens Mountain area the way it is now to protect its ecological, social, and economic integrity. He believes the single greatest threat to the mountain is unwise development. “We must craft legislation that prevents the establishment of developments that diminish the culture and ecology of the area. Trophy homes, resorts, and commercial developments have no place on the mountain.”

Fred reminded everyone that the policy statement here is for Federal land, not for private or State. It’s a policy that some people want, but it cannot dictate to private land.

2nd Question: John has seen examples of roads being relocated in parks (outside of wilderness) for riparian preservation purposes.

3rd Question: It troubles John that the Steens Act and the Wilderness Act have different language. These Acts are supposed to work together.

Fred said the original language in the Steens Act was intended to deal with problems quickly and without a lot of bureaucratic planning, the prolonged NEPA process for example. He said if you have an old road and start getting a watershed issue on that road, then it has to be dealt with and BLM has the authority to go do it. It’s not an upgrade; it’s a maintenance issue.

4th Question: John reminded the council that the opinion that the Steens Act is more recent, more specific to this place, so it is assumed that it was written with the Wilderness Act in mind and any differences are intentional came from an attorney who was a representative of the environmental community at the time.

5th Question: John said the Steens Act calls for preserving “the current character and uses of the land.” He questioned whether that refers to the particular parcel in question or—it says lands—the whole CMPA? Take the example of the Campbell’s property, do we have to preserve the characteristics of that piece of property or the CMPA, as a whole, in terms of what happens there?

Ruthie read a document from Walden’s office from around the time the Steens Act was written that argued for wilderness designation rather than national monument designation. To avoid the national monument designation folks got together and developed a land management plan (the Steens Act) that would both protect the heart of the mountain and allow the people who lived on the mountain to continue their way of

life without continuous threats and pressures that restrict their ability to operate.

Fred added that the purpose was also to not devalue land in this process. It's in the appraisal section, as an example, to where wilderness designation or wilderness study area shall not be a cost or devalue the value of the property. He asserted that restricting access devalues the private land, which is not allowed by Federal land restrictions in the Act.

John suggested returning to discussion of the document the following day after public comment.

### **Home Creek**

Ruthie spoke to Stacy and reported he's not interested in giving access. John spoke of the interest in access expressed by the public, particularly residents of Burns.

Terry commented that perhaps the access issues should be regarded as both sides of a coin. If we're discussing giving access through public land to private landowners, wouldn't the flip side be discussion of giving access through private lands to the public? Fred said the issues aren't the same. Further, he spoke of the inequality in the exchange of a right-of-way for a perpetual easement and the differences between the two. He would like to participate in further discussion of equal conditions or process both ways. Ruthie agreed with Fred that the two sides of the coin are different, pointing out that the Steens Act actually specifies the Secretary shall provide reasonable access to non-federally owned lands or interests in lands within the boundaries of the CMPA and the Wilderness Area to provide the owner of the land or interest the reasonable use thereof. She also mentioned some problems private landowners experience with the public using their private land such as fires that aren't put out and destructive parking in inappropriate places.

### **Public Comment**

Jake talked about the conditions of the road leading to Riddle Ranch when he visited last spring. There were upgrades after he was there and he wonders if, with the improved road bringing more visitors, the character of the Ranch will be affected. Are there other changes, such as a larger parking area planned? Fred was concerned about whether there were turnarounds on the road for vehicles that can't handle the road conditions. Karen said that she had been out there last weekend and used the turnaround and had a horrible time getting turned around with her trailer.

Rand thanked the council for reading his comments. He reiterated his thoughts about the two-step process for deciding what is reasonable access. In addition to the example he used at the last meeting, which illustrated unintended conflict between State and Federal laws, he spoke of the Constitution of the United States of America and the fifth amendment—if you take a property interest, that violates the fifth amendment, which says “nor shall private property be taken for public use without just compensation.” Also, the tenth amendment reserves what are called the police powers to the State. Any powers not delegated to the Federal Government are delegated to the State. He thinks that if a Federal institution takes the property interest it violates the Constitution; land that's private property is essentially State property, and it's governed that way.

Rand also spoke of the benefit to the environment of repairing and/or moving roads that are in a bad spot, such as crossing a creek, and how the repair or move prevents erosion going down into riparian areas. Sort of like building water bars on the road, it's a win-win for everybody. You have to bring equipment up there to fix the road.

He said the Steens Wilderness is going to grow in the future. Everything's designated around it as WSA, and eventually, a lot of that will probably be wilderness. There are going to be other inholdings. He points out that there has been historic access to his family's property and there still is access. There are waterholes that were made with heavy equipment all around that area and on his family's property. There are a couple year old satellite images where two-track roads on his family's inholding can be seen.

Normandy has been one of the July caretakers of the Ranch for several years. She expressed her appreciation



of all the time and passion all the SMAC members put in as they're trying to resolve issues for the health of the mountain and the enrichment of society; it's really hard work. As a person with impaired mobility, she expressed appreciation to the BLM for putting in the access at the Kiger Gorge Overlook and for maintaining the road so people with impaired mobility can go to the top of the mountain.

She places huge importance on getting people onto public lands so that they understand the importance of paying to protect and maintain them. One of the remarkable things about the United States is how much public land we have and how we have worked to protect it and care for it. Getting people onto the land helps underscore the need for continued investment in maintaining and protecting our public land, and it contributes to the physical and mental health of everybody who gets out.

Stacy hopes that all the hard work the council has put into defining reasonable access doesn't get lost.

Regarding Home Creek, he said they allow the public access to Home Creek if they ask permission, but they don't want to be in the business of controlling public access. They've taken the stance they've taken because they've lost so much private access. Stacy said it's leverage; we hope to gain access to our private property back. It might require some trades. For us to get to Three Springs it's—you come one direction and the road that's open is about 40 miles from cow camp. If you go the short direction, it's a mile and a half. The mile-and-a-half road no longer exists; it's been closed. The five-mile road to access Three Springs has been closed.

Somebody didn't feel like the road existed. If we do want access, then the BLM has to do an EA. Then they have to open it up for public comment. That historic access that we had has been lost. Three Springs, Tombstone Canyon, the road through the back of Baldheaded Camp—we have numerous parcels we're no longer allowed to access where historically we did, and we're not happy about it. We don't think the Steens Act gave BLM permission to block our access to our private inholdings. Not only ours, but our neighbors'. He asserted that if BLM wants to increase public use in an area, they cobble the road or they develop it, but if they don't, they determine there wasn't a road and that access is no more.

The Stroemple case gives us guidance on reasonable access. It makes it clear that reasonable and the Wilderness language are different. Stacy said he recalls that they put reasonable instead of adequate in the Steens Act on purpose and he agrees with the judge's decision. Thinking of how the private land was acquired through the Homestead Acts, he said there was access to every inholding. You had to access the land, you had to use it, you had to camp on it, you had to live on it to gain ownership. To say that there was never access is being ignorant as far as he's concerned. Stacy believes that laws that designate wilderness, such as the Steens Act, do have the ability to supersede the Wilderness Act.

Stacy said the landowners spent considerable time, with Fred as the lead, writing pages and pages on what development would be allowed and what development wouldn't be allowed. The Feds threw that language out because Federal law does not manage development on private land. The conflict between 122(a) and (d) is a reflection of that situation.

Stacy expressed his agreement with a two-step process in which the State land use process determines reasonable use of private land and then the access necessary follows that.

John said, looking at the maps and the creation of the CMPA, it looks like the intent was to provide public access at Home Creek and asked if Stacy remembers if that was intended to happen there? He also asked if Stacy has a way to go forward in using his leverage so Roaring Springs can get more access to private property.

Stacy replied the intent was for private property owners to have access to their land and public land users to have access to public land. He said, "When they came to us and asked us how many trips we'd made to any land that's surrounded by wilderness or wilderness study area because they're going to give us a permit for access, that's when I knew we were in trouble, and that's when we started locking gates. Because the intent that we were going to have the historic access we'd always had for our historic uses was now in question, and we had to gain leverage. Until some of that goes our way, we're not interested."

[Unidentified female] agrees with what Stacy said about reasonable use of the land. She also said there has to be the same for everybody to be fair. She remembers seeing Threemile parking lot but doesn't remember a public comment period or an EA done on it. While admitting that the EA may have been done and she just didn't know about it, she commented that suddenly there were rocks, equipment, and gravel going up and down their road and then debris, mud, and a mess to put in this little parking lot, but they can't get to some of their waterholes to fix them; she doesn't think that's fair. "BLM wants landowners to cooperate in good faith—I think that should go both ways."

Bill thinks Stacy should honor public access at Home Creek because public access was being allowed there when the Steens Act was enacted so it was assumed it would continue. He said Stacy agreed that there was public access at Home Creek at the time of designation; had there been any question whether the public did or did not have access an easement would have been included on the maps as part of the legislation. Fred asked what about the historical use of routes used by homesteaders to cross public lands. Why should that be different? Bill replied that he was only talking about Home Creek. He understands where Fred's going, but that's another discussion.

Tara thanked the public for their input.

## **ONDA Presentation**

Ryan Houston, executive director at ONDA, introduced himself and shared a little about what ONDA is working on.

He told the group about the Owyhee Bill started last spring by Senator Wyden. The quickly written draft tries to merge very rigorous adaptive management with a lot of investment and money. He compared it to the Steens Act but for management of the four-and-a-half million acres of Federal land in Malheur County. Senators Wyden and Merkley are functioning as the facilitators as the various interests work together to massage the draft bill into something that all of them can live with.

ONDA is also working with Senator Merkley on a bill to protect about 58,000 acres in the Sutton Mountain region. Senator Merkley is currently working on edits, red lines, some tweaks with some of the local ranchers, talking through a couple details with adjacent national parks and so forth to get things to align. ONDA expects to see a revised version in the next couple months.

ONDA has been working on stewardship and long-term wildlife management in the Hart Sheldon region for a long time. Some of the things that they're working on are projects that open up migratory corridors for wildlife, things like removing obsolete fencing; this is an area where they do a lot of that kind of work because they're very interested in trying to maintain pronghorn connectivity through this landscape.

They are working with the Confederated Tribes of Warm Springs and neighboring landowners regarding ways to protect the Whychus-Deschutes area of over 25,000 acres in the long term. There's discussion of wild and scenic river designation, wilderness designation, and other ideas.

Every year, ONDA runs about 35 stewardship trips involving a total of 500–600 volunteers and about 12,000 hours of work planting trees, pulling fences, building fences, maintaining trails, etc. Part of this is the Oregon Desert Trail, a route that runs from roughly Adrien, then 750 miles across the high desert, ending just east of Bend in the Badlands Wilderness. This is a route ONDA's identified and helped map.

Ryan asked the council and BLM to let ONDA know if they have needs or ideas. ONDA's volunteers like to contribute and connect.

## **February 14, 2020**

### Agenda

- Presentation from Terry on redband trout

- Discussion on wilderness and WSAs guided by Don and Kyle
- Discussion on references to economics in the Steens Act led by Fred
- Public comment period at 11:15 a.m.
- Subcommittee member round robin
- Dark Sky Sanctuary presentation

John asked when Tara thought they could get to talking about the group to work on the reasonable use document. He also has a question about the Nature's Advocate EA. It was decided to go ahead and cover this first.

Don shared a "white paper" that sums up the alternatives in the Nature's Advocate EA. John asked, if BLM gets the chance, that they let SMAC know what's the same and what's changed.

John suggested that the subcommittee to revise the reasonable use document include himself and Teresa. Ruthie and Terry also volunteered and will participate. Tara asked that if they get together physically, she be notified so she can document it for Council records.

Due to BLM's time crunch to move forward on the Nature's Advocate EA (and also the Bridge Creek EA), Jeff suggested a parallel process where BLM puts the EA out for public comment and then the revised reasonable use document can be considered along with the public feedback in writing the decision document.

John thinks it would be a good idea to have the new draft of the reasonable use document ready a month before the next SMAC meeting so the committee can review it in advance.

### **Redband Trout – Terry**

Trout Unlimited is a nationwide conservation organization for anglers with a mission to protect and restore fisheries in the U.S. In Oregon there are six chapters across the state (one is in Bend) and a state council. Terry is a volunteer on the state council as well as in the Bend Chapter. Trout Unlimited has a long history of working with landowners and commercial interests to restore and reconnect fisheries, particularly in Oregon. They are not a litigious organization; they're in the business of finding collaborative solutions.

Terry gave a basin population overview of redband trout and talked about their history in the area, some population health concerns, angling opportunities, and some ideas for moving forward. He got most of his information from a habitat conservation draft authored by BLM, USFWS, and the Burns Paiute Tribe. It's in a draft form and isn't in an implementation stage yet.

With redband rainbows three primary types are exhibited in the Steens population: the resident trout, they hatch and don't migrate very far; small stream to large stream migration, fish that are hatched in tributaries to Blitzen and then migrate to the Blitzen and then come back to spawn; and lake to stream migration. The reason fish migrate is they're looking for food. They get to a certain point when there's not enough food for them to grow to the size that they want to so they migrate to find other sources of food. In our system here, there's a lot of stream function connectivity that helps fish be as robust as they can be that we'd like to encourage. Basic life history:

- They spawn in the spring when the stream water gets to a certain temperature (typically in the mid- to high forties).
- Eggs are in the gravel from four to seven weeks and hatch early in the summer.
- Most fish mature in two to three years and spawn once they reach a particular age.

The Steens Act designated the Blitzen as a Redband Trout Reserve and the purpose was to conserve, protect, and enhance the Donner und Blitzen population of redband trout and provide opportunities for research, fish and wildlife education, and fish and wildlife related recreation. Blitzen is catch and release for trout, Indian Creek is not open for fishing, and Kiger Creek has a five fish limit and bait allowed.

The Steens is one of the premier backcountry fishing areas in the state. It is superior compared to the streams

that are closer to higher population areas that get a lot of activity. You have to walk to a lot of the places to fish, so that eliminates a lot of casual anglers. It's a different kind of a fishing experience.

The population health is really good. One of the reasons there aren't bigger fish on a regular basis is there are passage issues, particularly at Page Springs Weir. Small fish can get downstream, but bigger fish can't get back up.

Because of the carp lower in the basin, there's concern that carp would invade the Blitzen, but from a habitat perspective, it's not attractive to carp.

Terry asked what the issues are to removing the weir that's blocking fish migration.

Shortly after Don got on District, he met with an ODFW fisheries biologist who told him this had become a priority stream for ODFW, and they wanted to take another look at removal of the gaging weir. A field trip is planned out there this spring/summer to look at it and start a plan. Terry asked Don to let him know when that happens.

Jeff said that, originally, the reason the weir was not removed was because it was gaging the water that came out of the mountain, which is important to the Refuge and some of the people downstream that have water rights and need to know how much water is coming off the mountain. Now it's not as big of an issue; there are other ways to do it. The other issue is it's in wilderness. That will limit options on how things are done. ODFW is calling this a barrier of concern, but it is in wilderness where BLM manages. In order to take it out, there is a process and analysis to do to ensure a net benefit to fish.

John asked what SMAC can do. Terry said a statement from SMAC might help encourage the analysis to start.

Fred brought up carp management, and Jeff suggested inviting the Refuge to come to talk about carp management.

### **Wilderness and WSA – Kyle and Don**

Kyle addressed SMAC's previous questions in a handout. Pete and John worked with BLM to come up with the questions.

- What is a WSA? Lands managed by the BLM to protect lands with wilderness characteristics. In 1976, FLPMA directed the inventory of these lands. In 1991, the wilderness inventory was released.
- How does a WSA differ from wilderness or generally managed BLM land? Wilderness is preserved. WSAs are managed under the non-impairment clause. Congressional action is required to change WSA to wilderness or release WSA from protections.
- What drives the conversion of WSA to wilderness or return to non-designation? Kyle said it can be a variety of things. The WJMA is an area that was removed from WSA status. Only Congress can designate wilderness or release WSA from non-impairment management. BLM only makes recommendations.

BLM is re-evaluating WSAs as changes occur (some of the inventories are 40 years old). They also inventory other areas that are suggested. John said it would be interesting to know what the existing recommendations are. Jeff said he and Kyle will see what they can dig up.

Ruthie commented that in WSA, road maintenance is limited and can inhibit firefighting. Jeff replied that there are restrictions right now due to the issues with the TMP. WSA management is a little more restrictive than for wilderness. Don talked about manipulation of the vegetation in WSA as a fuel break. BLM is doing that in a way that's going to protect some visual resources or minimize impact. There is some flexibility in the exceptions under the non-impairment standard. Some have to do with being grandfathered and some have

to do with fire/fuels management. Jeff said it comes down to a manager's decision. There are certain requirements that BLM has to meet to be able to do that.

John brought up how WSA status also prevented a parking lot from being built on the north side of Pike Creek. Kali asked what needs to be done to get Congress to make a decision one way or the other on the WSA north of Pike Creek. Jeff did not know the answer but said he could find out. The broader the range of support you have, the more likely something will happen. Jeff doesn't want to give the impression that BLM has no influence at all. Congress listens to BLM's analysis, but there's a whole process.

Kyle spoke about photo points documenting WSA conditions over time. Fred asked how many photos you would have in a 2000-acre WSA. Are the photos of the same exact points every year or just general photos? Jeff said there are points that are evaluated using a checklist of criteria.

### **Steens Act – Fred**

Fred shared a handout he created with some highlights from the Steens Act. His presentation included reading purpose numbers 1, 5, 10, and 11 in Section 1; definition number 9, cooperative management agreement, in Section 2; objectives 1 and 2 in Section 102(b); Section 111(a)(2); and Section 111(b)(3) and (4). He focused on the ecological, social, and economic environments and says that the economic environment (as well as the other two) should be analyzed in all EAs and EISs. Section 111(b)(3) puts private landowners on a level with State agencies. As landowners, everything has an economic cost or value, and landowners bear costs when wilderness requirements restrict their activities or the uses of their private land inadvertently.

John pointed out there's only one purpose of the CMPA, which is to manage and protect the long-term ecological integrity of the Steens Mountain. How would you read that? The idea that all economic promotion is subject to preserving and protecting ecological integrity?

Fred quoted Section 2(5) "The term 'ecological integrity' means a landscape where ecological processes are functioning to maintain the structure, composition, activity, and resilience of the landscape over time.... (A) a complex of plant communities, habitats and conditions representative of variable and sustainable successional conditions; and (B) the maintenance of biological diversity, soil fertility, and genetic interchange." For a rancher to run his business, he has to consider the natural ecological changes, which are extremely dynamic with or without man's intervention—floods, droughts, vegetative changes, ecological succession over time—all these things have to be managed according to that. Fred said there's a lot of heartburn over that being a primary purpose, but when you look at the context of the purposes of the Act, the purpose of the CMPA is (in his opinion) secondary to the purposes of the Act, but ecological integrity becomes a guideline in analyzing, on Federal land not on private, decision making. It is something BLM must do with looking at fire or the water belt, those sorts of things.

Fred asserted that there are a number of tools in the Act that could allow for more cooperation between parties. Economic incentives to landowners—they could fence off riparian pastures to improve riparian conditions, as an example. Cooperative agreements where you could have payments to cut juniper out of sage-grouse habitat. For the term of an easement, you could do something less than perpetual. He emphasized access or non-access has economic value. It may be the biggest, actually, because land values change and economic uses are restricted so you don't have the economic uses as a private landowner. There are other ways to create win-win situations and avoid conflict. Fred argued that economic integrity is partner to achievement of ecological integrity.

[Unidentified male] added that there are primary economic benefits such as those to the private landowner who's grazing cattle, and there are secondary economic benefits through recreation and the money recreationists spend in Harney County.

### **Public Comment**

John said he spoke to Peter Walker yesterday and Peter hasn't forgotten that he owes SMAC a transcript and

summary of the recording he made of what SMAC members had to say about where this whole thing came from and he promised that it's coming; he set himself a deadline. John added that Stacy mentioned yesterday that he thought SMAC ought to go back and look at the SMAC minutes where a lot of this was discussed. I don't know if the website goes back that far.

Tara said that due to streamlining, the site doesn't show them back that far, but BLM still has them. John would like to see them for the reasonable use discussions. He could put them on the doc site.

## **Dark Sky Sanctuary**

Teresa Wicks, a Portland Audubon field biologist living in Burns, gave a presentation about the International Dark-Sky Association (IDA) and dark sky sanctuaries. Dark sky sanctuary is not a legal designation like a wilderness study area.

Tying her presentation into the earlier discussions of history and the preservation of the rugged beauty of the Steens, she noted that she doesn't think people think a lot about the stars and preserving access to the beauty of stars. She continued by illustrating three types of light pollution (skyglow, glare, and light trespass) and their consequences. Beyond the obvious consequence of not being able to see the stars, light pollution can also affect bird migration/navigation and reptile navigation and cause disruption of the seasonal cycle of trees and human biological rhythms (which can contribute to health issues).

Historically, people have depended on stars to navigate and have been inspired by them to write poetry or create art. Being able to preserve places where people can have that level of inspiration and that access is important for maintaining that part of our human history. She thinks that all that live in Harney County are among the lucky ones; light pollution is so extensive at this point that about 80 percent of people across the globe cannot see the Milky Way.

She shared a map showing light pollution ranging from bright (where you might see two stars at night) to dark (which is true, high-quality dark sky). The Great Basin is one of the largest patches of remaining high-quality dark sky in North America. She pointed out Burns and Crane on the pollution map. On really clear nights in Burns, when you look up, you can see the Milky Way.

Teresa related one of her favorite stories. During the L.A. earthquake in 1993, when all the power went out, people could see the Milky Way for the first time in their lives in L.A. They thought that something bad was happening, and a huge number of people called emergency services because the strange cloud in the sky (which was the Milky Way) was scary because they didn't understand that the Milky Way was there. Light pollution had previously drowned out their ability to see it. We can make a difference by going out and measuring our dark skies, recording that information, and by doing things to preserve access to those dark skies.

Fred commented that if places were safer, if they had law and order, they wouldn't need all the streetlights. Theresa answered this with data from a study that showed that the extra lighting in cities doesn't increase safety because our eyes don't handle the dark/light contrast well and so that contrast makes it harder for us to see people in the dark if we are standing in the light.

There are things that can be done to reduce the amount of light pollution, such as caps that go on top of streetlights that direct the light down.

The IDA has places all across the world with dark sky designations, from dark sky sanctuaries to dark sky communities. The designations are useful for two reasons. People spend money to travel to these places to see the stars. Also, it recognizes that people that live in a particular area value the dark skies and that heritage and the ecological benefits.

John asked what the status of Steens' application is. Teresa said she talked to Mandy DeCroo and Kyle recently and it sounds like Tom had an application for Steens Wilderness Area for designation as a dark sky sanctuary on which he had filled out everything except the darkness quality numbers. She knows that

Audubon is committed to making the meter readings this fall.

Fred asked if a full moon would affect birds' vision. Teresa said birds perceive light on a different spectrum than humans so she's not sure if a full moon affects their vision. Artificial light is generally a different UV spectrum than what the moon or the sun would be, but there's also the dark/light contrast; the full moon tends to flood everything with light but my understanding is the reason birds get confused is that they've been flying through one type of light quality (or dark quality) and then suddenly that changes.

John would like to see the designation happen but wonders if the fact that the application was prepared by somebody who doesn't work for the BLM anymore will affect the application. Who will take it up now? BLM? Audubon? Jeff said that BLM doesn't know enough about it. We're willing to learn about it, but from a recreation standpoint, we're at a point now where we manage what we have, but barely.

John asked if Teresa has spoken to the Chamber. She replied that she has not yet.

Concern was expressed about such a designation bringing numbers to the Steens and interfering with the interests already on the mountain. Teresa thinks the numbers will increase with people wanting to see the stars regardless of designation.

Kali thinks pursuing designation is something that should be looked at. Kali, Ruthie, and John want to look into this more before the next meeting.

### **Round Robin**

Kali said that in July, Jeff said that funding hadn't been approved for Pike Creek and she wondered how funding on that was going this year. Kali was surprised that BLM's budget had not been approved for six months. She wants it in the record that she hopes it is going better this year.

Jeff said BLM has a budget this year. Don is not sure what's happening with contracting on Pike Creek because it is lower priority. Jeff said it is going better this year.

In the recreation area, John has always felt that it is important to connect with more than just organizations; he tries to communicate with people who go to the Steens for various reasons. On a few occasions he has been invited to give presentations; one is coming up in March for a natural history society in Eugene that has existed for almost 75 years. He talks about SMACs work and about the Steens.

He wanted to remind folks that he has an email list of all the people who have expressed interest. It started as Rec specific but has also moved into animals. He continues to publicize what SMAC is doing to the people on the list. He also brought up the document site. He will be posting the archived SMAC minutes to the site when he receives them from Tara.

Going back to the Owyhee Bill, there will be issues coming up with that. It would be nice if some of the descriptions of access could be added.

Ruthie said that between the last meeting and this one, she communicated with Tom Sharp from Oregon Cattlemen's Association on the challenges we were having with the SMAC appointments and he passed that along to his contacts in the Department of the Interior. She also sent the same information to Walden's office, and she thinks maybe it helped because Walden mentioned it at the meeting in Crane.

She is also currently working with Paul regarding the documents relating to conversations that occurred prior to the enactment of the Steens Act. They were able to get those archives a week ago but, unfortunately, they can't make copies of them because they were never published. However, he has access to read them so she's sent Paul a note to see if she can get access to see them. She is willing to go to D.C. to do that. He was able to send her testimonies from July 18, 2000. She sent them to SMAC and will send them out to the landowners. Context is everything – where we were when and how we got here. Hopefully, they will help us further define access and other issues.

John wanted to point out that what SMAC is doing, while a step forward from where they were before, is still not sustainable.

Rod gave a sage-grouse update.

Pete said there were roughly 280 campers at last year's running camp. Forty-seven top medalists; three state gold medalists, six silver, four bronze. Also, eighteen state team trophies, four state championships, four state second place trophies, and five state third place trophies. The camp is as much about being a good person and about what life is about as it is the running. This year Harland Yriarte (camp founder) went to online registration; it opens January first. There were over 350 applicants by January 15th.

### **Next Meeting**

Date: Tara needs a minimum of 90 days between meetings but would prefer 95. She has to submit a full agenda 90 days ahead of time; the extra five days give her time to gather the paperwork. June 4-5 was agreed on for the next session (in Frenchglen).

Agenda:

- Page Springs Weir - tour
- Refuge presentation on carp management – Tara will look into this
- Update on reasonable use document - John
- Wilderness and WSA process - BLM
- Dark Sky Sanctuary
- Eric will present on the Steens Act

Motion to adjourn made and seconded.