

Steens Mountain Advisory Council
June 13-14, 2024, Meeting Summary Minutes – FINAL

Steens Mountain Advisory Council (SMAC) met June 13 and 14, 2024, at the Bureau of Land Management's Burns District Office in Hines. 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.

SMAC members in attendance:

- Cliff Volpe, Dispersed Recreation Representative
- Jake Jakubik, No Financial Interest Representative
- Kali Wilson, Grazing Permittee Representative
- Mike Fox, Private Landowner Representative
- Butch Goette, Mechanized and Consumptive Recreation Representative
- Pete Runnels, Commercial Recreation Representative
- Karen Withrow, Statewide Environmental Representative
- Teresa Wicks, Local Environmental Representative
- Terry Turner, Fish and Recreation Fishing Representative
- Lee Foster, State Liaison
- Stacy Davies, Grazing Permittee Representative
- Tim O'Crowley, Wild Horse Management Representative

SMAC members absent:

- Eric Hawley, Burns Paiute Tribe Representative

BLM employees in attendance:

- Tara Thissell, BLM Public Affairs Specialist and SMAC Coordinator
- Jeff Rose, BLM Burns District Manager
- Don Rotell, BLM Andrews/Steens Field Office Manager
- Kyle Wanner, BLM Assistant Field Manager – Recreation/Wilderness
- Patrick O'Grady, BLM Archaeologist
- Calla Hagle, BLM Inflation Reduction Act Coordinator
- Andy Daniels, BLM Assistant Field Manager – Renewables (Andrews/Steens)

Public attendance:

- Tenaya Jewell, Advocates for Wild Equine
- Lorna Torrey-Palermo, Advocates for Wild Equine
- Mark Salvo, Oregon Natural Desert Association

- Bill Marlett, Oregon Natural Desert Association
- Rand Campbell, Nature's Advocate, LLC
- TJ Barbour, private citizen
- Cheryl Williams, private citizen
- Janelle Garzo, private citizen
- Phil Olson, private citizen
- Lynn Howlett, private citizen

JUNE 13, 2024

Field Tour

The SMAC met in Frenchglen, Oregon, for a caravan field tour to various locations on Steens Mountain. Stops and discussion topics included: proposed north Steens / Moon Hill equestrian camping site development – grazing, fire use and management, and Inflation Reduction Act funding; Big Indian Gorge Overlook – Steens Loop Road rock fall stabilization project; Riddle Brothers Ranch – area history, recreation.

JUNE 14, 2024

Welcome/Introductions (Tara Thissell, BLM Public Affairs Specialist and SMAC Coordinator)

Tara Thissell opened the meeting with a review of the agenda, handouts for those in attendance, facility logistics, etc. The group officially welcomed new appointees Stacy Davies (Grazing Permittee Representative) and Tim O'Crowley (Wild Horse Management Representative).

June 13 Field Trip recap

Mike Fox – great presentation from Kirk Davies at the Moon Hill site about use of grazing and fire management. The use of cattle in managing fine fuels was great information to hear.

Went to Big Indian Gorge overlook, near the Steens Loop Road rockfall area and talked about the situation there, getting the road open, contracting to repair the problem. Then went to Riddle Brothers Ranch for a tour, met the current caretakers – who are descendants of the Riddle family! Mike shared a little bit of information from current Riddle hosts about the history of the Riddle family and their connection.

Butch Goette agreed that the grazing and fire management conversation was excellent and would be great to have available to the public more often.

Karen Withrow really appreciated the visit to the Moon Hill Road potential equine camping area on the north side of Steens. The grazing presentation from Kirk Davies was also very good. Would like a handout summary on Kirk's presentation if possible.

Mike added that he wrote a letter to SMAC a year ago regarding a workshop at the Northern Great Basin Experiment Station about grazing, grazing as a tool, etc.

Teresa Wicks would've liked to hear more information about grazing as a fuels management tool, particularly for more understanding for how prescribed fire fits into/interacts with some of that work. If the two aren't used in combination, Teresa would be interested in hearing that as well.

Stacy Davies added that we can field tour on the Steens to look at some of this work on the ground.

Don Rotell mentioned that BLM's Jamie McCormack gave a detailed presentation at the SMAC's January meeting about grazing administration and that information/handouts are available on the SMAC Google Drive. Jake added that some of this information could be available for caretakers at Riddle.

Designated Federal Official's Update (Jeff Rose, BLM Burns District Manager)

We continue to work on hiring and prioritizing positions for application – currently at 74% staffed, which is much higher than in previous years. We've recently hired Lisa Foster (Botanist), Angie Yost (Forester), Deanna Spragg (Riparian/Fisheries/Hydrology), and others. We have quite a few shifts in personnel overall, but we're working hard to fill those gaps. Tom Beaucage from the Spokane BLM office will start a 4-month assignment as the District Manager in Burns beginning June 17. Jeff is retiring June 30!

Federal budgets are mostly reduced this fiscal year (70% reduction overall). The funds seem to be redistributed to other specific programs and priorities, so the deficit doesn't feel overly difficult to manage.

On the north end of the district, there is a significant road maintenance project in progress on the Skull Creek road. We should be able keep the road open longer with the improvements.

Andrews/Steens Field Manager's Update (Don Rotell)

Staffing specifically in Andrews/Steens – we have quite a few vacancies in range and recreation.

We are busy preparing for wild horse gathers this summer – South Steens in mid-August. We are also working on the NEPA for the Kiger and Riddle Herd Management Areas. We received around 500 comments on the draft EA and are working on responses as well as a FONSI and Decision Record.

Teresa asked what is specifically in the EA for Kiger and Riddle – it is the analysis for a 10-year gather plan for those Herd Management Areas. Butch asked about the public perception of the gather and management process. Don said the program overall is very complex and the opinions are across the board. Jake asked if we could quantify the volume of comments/information separate from the “noise”? How do you sort what is valid and what isn’t? Jeff responded with the reminder that the public comment process is not a vote. Substantive comments are reviewed for adequacy, data, impacts, etc. and responded to in the NEPA process.

Bridge Creek Draft EIS remains in progress – presentation coming up in the meeting! We won’t put the document out to the public until we have a briefing with BLM Headquarters, and we are currently waiting in line for that opportunity. This is the process for all RMP-EIS documents.

Preparing Administrative Records for previous NEPA documents currently in litigation.

Waiting for the contract to be awarded for Steens Loop Road Rehabilitation EA (rockfall repair).

Other: Working on inventories for the No Livestock Grazing Area fence – maintenance and reconstruction of that fence is part of our IRA; contracting a writer-editor and some GIS support for the Page Springs Weir Removal EIS; bringing back two BLM retirees to work on that EIS specifically (funded by IRA and BIL); doing some restoration work in the Mud Creek area (through NEPA DNA), aerial herbicide application, juniper work, and planting.

Stacy asked about the Bridge Creek EA. Don said that document and Decision Records was finished in 2020, but currently in federal court litigation. We are moving forward with an EIS for the project simultaneously.

Steens Travel Management Planning – we are currently at the route evaluation phase. The majority of the routes have been documented on the ground and specialists are evaluating that data now. Stacy wants to make sure the SMAC has input on this round of travel management planning. The BLM agreed and affirmed.

Bridge Creek EIS

Don Rotell introduced the topic and recapped where we have been with presentations to the SMAC on this project. Andy Daniels, Assistant Field Manager for Renewable Resources for Andrews/Steens, gave a presentation on the Land Health Assessment process for the Bridge Creek EIS. This presentation is available on the SMAC google documents shared site.

Mike asked about the Mud Creek allotment not meeting standard 4 of the evaluation due to natural conditions. Don stated that in the Land Health process, determining causal factors is at the end of the process. Laying out the facts comes first, which often paints a negative picture of what the situation really is on the landscape. Regardless of the picture, the analysis and determination are based on facts and standard measures.

Stacy added that lack of fire is a huge reason why some of the standards not being met. Too many junipers also. What is the next step and where can the SMAC be involved? Don stated that the BLM will bring the EIS to the SMAC, and the group (and individuals) will have opportunities to provide comments. Communication and information sharing is hugely important, and the BLM is committed to that.

Karen asked about the Western Ridge Muscle and if it has been evaluated for the creeks within the Bridge Creek area? This and other questions and comments from Karen were forwarded to Don Rotell for review. Most of the questions were answered in the presentation from Andy Daniels.

Teresa said it might be nice to have information or a presentation from the Refuge about how they view the analysis and if any of the decisions/plans factor into the Refuge's planning/management (since the waters run from BLM onto the Refuge) – what is happening upstream?

IRA Project Update (Kyle Wanner, Calla Hagle)

Kyle and Calla gave presentations about some of the projects that will have IRA funding/support. This presentation is available on the SMAC Google Docs drive.

Stacy Davies made a recommendation: BLM to prioritize resources for equestrian camping development on the north side of Steens Mountain, primarily at the proposed Moon Hill site. Develop in stages and steps, adaptive management.

Karen added that this project is shovel ready and the funding is available right now.

Tim seconded. Motion passed.

Discussing recreation on the east side of Steens Mountain is a priority for the SMAC and the group supports the BLM make progress toward to developed camping. It was asked if there is camping available at Frog Springs adjacent to the Alvord Desert. This would be a natural fit since the area is already disturbed, but any actions will have to be NEPA compliant. Teresa asked if there is information available that could be shared at the next meeting on where the public interest lies with recreation on the east side of the Steens.

Cliff Volpe would like the SMAC to look at some of the areas on the ground to see what might be available. Jake agreed, however, the SMAC has also been to the proposed Penland camping area a couple of times and now realizes how difficult it will be to access anything from there.

There was light discussion about the Page Springs Weir (the NEPA work is IRA funded) and the progress on 'what to do with it.' Don pointed out that "just because it is directed in the Steens Act doesn't mean it's going to happen immediately." There is extensive planning, analysis and expense that goes into a project like that. Calla elaborated a bit on the depth of analysis included in an EIS pertaining to direct, indirect, and significant effects, among other things.

Butch asked about the \$4M in IRA funds and if that money 'sunsets'. Calla said the funds don't necessarily go away after a certain amount of time, but it is a very high priority to develop projects and get this funding allocated sooner than later.

SMAC Strategic Initiative

At the close of the last meeting, there was conversation about revisiting the SMAC's 2020 "Reasonable access for reasonable use" document. Some SMAC members agreed that the document should be reviewed to see if it is still current, applicable, useful, etc. The document is supposed to provide guidance for SMAC recommendations on the access issue based on previous agreements (so as not to rehash everything pertaining to reasonable access for reasonable use when new issues or requests arise).

Butch stated at the end of the last meeting (January 2024), there was conversation about looking at SMAC's "Reasonable Access for Reasonable Use" document and perhaps updating it to reflect current membership, ideals, etc. Butch, Jake and Mike got together over dinner a few weeks ago and discussed changes to the document they thought would apply to and satisfy the SMAC. Some of the changes would be for clarity, others for simplicity, and some for perspective. Via email, Mike made a list of

the changes from the 2020 version to the 2024 version. These documents are available on the SMAC Google Drive.

Butch stated that it's important to look back at documents with a "second set of lenses" to reflect and evaluate if SMAC work is still appropriate. There were two focuses on this reflection: 1) current and potential revisions, if necessary, of the current document, and 2) an issue that came up during that "second set of lenses" review.

Butch continued that the 2020 version of the document is great and very well done, but that it can't be used against some complex scenarios that could arise from inholders. "The permitting process for private land use is up to the State and the County, and they don't have to follow the Steens Act." So those entities could permit something that the "allowed" access could not accommodate. Butch and Mike really feel that the document needs to be tightened up (remove ambiguity) to actually be helpful in application.

Mike stated he practiced law for 35+ years and that included writing briefs for courts where you have to make your best argument to persuade a judge to rule in favor of your client. In looking at the 2020 document, it was very good and getting to where we need to go...but there were some gaps in the analysis of how we got there. We attempted to take care of those gaps with the changes made from the 2020 document to the 2024 version.

One of those gaps has to do with what the Steens Act really spoke to in terms of "use of the land." When it comes to reasonable access, the Steens Act is relating that access to *development*.

- If a person is NOT going to develop their land (no permitting required for their desired land use), but still wants access to it, the SMAC has NO role in determining that access regardless of what kind of private property use is permitted (because the access doesn't pertain to any development).
- If a person IS going to develop their land under whatever permitting they receive from the State/County, the SMAC DOES have a role in looking at the access in combination with the uses and characteristics of the landscape at the time the Steens Act was passed.
 - o Reasonable access here can't be unduly burdensome to the land.
 - o Reasonable access here also can't be unduly burdensome to the landowner.

Both Mike and Butch gave examples of scenarios that could come before the BLM that the current “reasonable access for reasonable use” document such as developing a lithium mine or a “Big Sky” resort.

Note: navigating between reasonable USE on private property and reasonable ACCESS to that property for that use remains a challenge.

Mike summarized “we changed nothing in terms of what the final document says, or the steps the SMAC goes through to make reasonable access recommendations” – we just attempted to fill in some gaps between the start and finish.

Teresa stated that a lot of assumptions were made about the 2020 document writer’s interpretation of the Steens Act, and she asked for a deeper discussion on the process gone through to create the original write-up. The majority of the SMAC was NOT in agreement that changes needed to be made to the document in the first place – some said ‘yes’ and some said ‘no’.

When Congress passes a law, they do so with the information they have at that time. That does not ever preclude Congress from revisiting an issue with a fresh look, changing times, new information, etc.

Don added that just this week IBLA recently made a ruling on the “High Desert Aspens vs. BLM” case, which a lot of it is based around reasonable access. Also, the decision to not authorize sheep trailing was remanded back to BLM. After the meeting, Stacy provided the following detail from the background section of the ruling:

“The Board has previously contrasted the Steens Act’s access provision to the access provision of the Wilderness Act, which directs the governing agency to grant inholders “such rights as may be necessary to assure adequate access” to their inholdings, and concluded that “the specific provisions of the Steens Act (reasonable access for reasonable use) necessarily take precedence over the general rule reflected in the Wilderness Act (necessary to assure adequate access).” As corollaries to this conclusion, the Board has opined that “the statutory grant of access rights under the Steens Act is different from and potentially broader than under the Wilderness Act and that BLM is not bound by general rules implementing the Wilderness Act’s adequate access standard when determining access under the Steens Act.” However, the Board has also cautioned that an inholder’s “claim to unfettered, unrestricted, unlimited access is clearly overbroad and inconsistent with the Steens Act.”

Teresa reminded the group that as a SMAC, they are NOT responsible for or authorized to make any decisions (legal or otherwise). The SMAC's job is to make *recommendations* to the BLM based on collaborative consensus and then the BLM can do with those recommendations what they choose. Mike stated that regardless, an inholder is entitled to know what he is "up against" when they have an access issue that could receive SMAC input. We should be doing our best to make an informed decision based on what the Steens Act says.

Teresa added that the Steens Act also says "no new roads in Wilderness." A lot of the things that were removed from the 2020 to 2024 document were things that pertained to decisions having the least impact. Those compromises were specifically made between varying interests and specifically included as part of their collaboration. Mike stated that no one on the SMAC besides Mike, Jake and Butch volunteered to be on the group that reviewed/updated the 2020 document and Teresa added that she didn't want to participate in a review until the entire SMAC actually agreed an edit was necessary – that did not happen, and changes were made without majority agreement.

Teresa does not feel heard. Compromises absolutely have to be made because the SMAC is a group representing diverse interests. The original compromises in the 2020 document were basically taken out for the 2024 document and that feels like some interests are being entirely overlooked or ignored. Mike respectfully disagrees on this point. The Steens Act says what it says – there isn't room for compromises on what you think that language entail. We merely tried to eliminate the ambiguities in the 2020 document by reading the Steens Act document as it is written.

Cliff stated that he appreciated everyone's input and effort and that this is a very complex issue. At the next SMAC meeting, Cliff suggested a presentation by the BLM and/or legal counsel on their interpretation of reasonable access.

Tara asked if anyone went through the two documents and asked for any specific textual changes we could discuss as a group. She also encouraged the group to remember the "Reasonable Access for Reasonable Use" document is not a requirement – the SMAC does not have to have, use or rely on that sort of guidance whatsoever. Tara suggested the group decide if they want to discuss specific changes, and/or if they want to continue conversation about the document at all (at this meeting or into the future).

Butch thinks that before the SMAC can even consider reasonable access, they need to know what type of use is desired and permitted by the landowner. Teresa reminded the group that SMAC does not get to weigh in on the type of use on private property.

Stacy stated that the document we are talking about is specific to access and it seems like there are several more levels to this conversation today. Our decisions/recommendations shouldn't be a regulatory approach at all – our power is in finding creative solutions... what are the threats? Where are the private lands? How can we address the fears collaboratively? There are going to be multiple court cases regarding access to private property that will set precedence over time. The SMAC should be going “big picture” and thinking about what private property development threats may be out there and how to mitigate them.

Karen would like to move forward and try to eliminate future problems in collaboration with landowners. She would rather not argue over wording – that feels like we are going backwards. Do the existing guidelines already work? We haven't even really tested them.

Stacy stated that when the Act was written, there were originally several provisions and categories about types of development on the Steens, what should/shouldn't be allowed... that information got replaced with incentives and the “reasonable use” terminology (the Act is a federal law, and congressional representatives did not want Federal law to dictate private land use in any way).

Cliff said that we should focus on what are the issues with inholder access right now? Who are they, what do they want, etc.? Why is it a problem? How can it be creatively solved? That ties directly into one of the SMAC's previous efforts – their “Inholder/Edgeholder Initiative”.

The SMAC agreed to table the conversation about the “Reasonable Access for Reasonable Use” document until the next meeting. Between now and then, SMAC members should look over both the 2020 and 2024 versions and come to the next meeting ready to discuss:

- How do you interpret the language in this document?
- What do you expect from this document? What is the purpose of it?
- How do you think SMAC can use this document?
- How will BLM use the information from SMAC that they recommended from this outline/process?

Teresa re-emphasized that these conversations tend to overlook or ignore environmental representative input. Also, the SMAC never voted as a quorum on the 2020 version to adopt the process, nor did they vote as a quorum to edit the 2020 version. There are many things in the document that are not included (they were but

have been removed). Teresa is not interested in having another conversation where environmental issues are ignored, and collaboration is out the window.

Cliff re-emphasized his desire for a presentation from the BLM on their interpretation of “reasonable” and Kali stated the agency may be reluctant to be definitive on the term because of lack of legal case law on the issue. Kali mentioned and Mike agreed that some people view the Steens Act as having precedence over the Wilderness Act (on conflicting issues) because the Steens Act is newer. Stacy stated that this has been confirmed by a judge specifically regarding “reasonable.”

Public Comment

Mark Salvo, Oregon Natural Desert Association – ONDA is based in Bend and has 25,000 members and supporters. ONDA was part of the establishment of the Steens Act, namely Bill Marlett. The Steens is a very special landscape and ONDA is very appreciative of the work the SMAC does. ONDA has worked to develop a huge amount of information about the Steens area for the public. ONDA participates in all the public processes for the Steens area. ONDA appreciates all of the important questions and conversations from SMAC. Mark emphasized the need for reasonable access determinations to consider the environmental perspective. ONDA is one of the known litigators but is litigating less as the years go on. ONDA wants to make sure the agency and SMAC know that the group is always available for discussions, collaboration, environmental perspectives, etc.

Cliff asked Mark about a potential presentation from ONDA to the group about their experience with and about reasonable access. Mark will investigate the possibility.

Rand Campbell – thanked the SMAC for their continued work. Rand added that the current IBLA ruling is available online, along with two other important decisions on access: Ankle Creek and High Desert Aspen.

Bill Marlett – thanked the SMAC and noted their interesting discussion today about reasonable access for reasonable use.

Lorna Torrey-Palermo – enjoyed listening to the SMAC and will be reading up!

Tenaya Jewell – just spent a few days exploring the Steens area. Regarding the public perception of the wild horses, 87% of Americans want horses to remain free and protected. They are a big reason why some people visit states with Herd Management Areas. People are upset when they hear about gathers and that some herds are being zeroed out. Tenaya Looks forward to meeting the SMAC’s new Wild Horse

Management representative. Tenaya comment that she thinks the Palomino Buttes Herd Management Area is being zeroed out.

Phil Olson – Likely the closest resident to the proposed Penland camping area and sees very little use in that area. Asked to hear the SMAC recommendation on the north Steens equestrian camping. Mentioned that if camping was developed at Penland, users would be closer to private buildings and homes than would be at the north Steens area.

Val Cacema-Hogsett – clarified that ‘sometimes it feels like a herd has been zeroed out, but we mean that not in the legal sense.’ Stated BLM should have maps available in the office of various HMAs that show where horses are most often available to be viewed. As the herds are being gathered down to AML more frequently now, it gets harder and harder to find them in the wild. Would also like to see information about the surveys for where horses are seen during observation/population census.

Teresa asked if there was a risk in trying to tell people where to find horses in the wild – would there be more concern if people don’t find animals where generally expected? Val did not think there would be increased concern because people know that animals move around a lot – it would just give a great starting point. Would appreciate more maps and signage to know when we’re on HMAs.

Stacy asked if horse viewers have a site or technology to communicate with each other specifically about this? Maybe the users (viewers) could have an online space to record sightings? Val said the problem is that most horse observers aren’t very “techy” but that she would investigate the possibility. Could maybe work with some of the environmental groups that are also on the landscape for other reasons.

Cliff mentioned that using Google Earth/maps with pinned locations and then shared online would be great; could also start a Discord community. Discord is a gamers-app, but it works great for real time sightings of ‘things’!

Stacy encouraged wild horses viewers to stop and ask the locals about horse locations – they could help as well. The users can contribute to the viewing experience instead of putting the burden on the agency.

Member Roundtable

Pete – 2024 is the 50th year of the Steens Mountain Running Camp! There is a waiting list for both sessions, as usual, and the first week session is July 14. Stacy asked how many other commercial users were on the mountain and Kyle answered that it varies

from 15-20, but they are all very light users. Pete appreciates the juniper and medusahead work being done.

Stacy – thankful for the BLM’s juniper and Medusahead work.

Cliff – a favorite recreational activity is backpacking and loves to go to Wildhorse Lake. However, camping at Little Wildhorse Lake is prohibited. Asked for the reasoning and Kyle stated that it has to do with the ACEC and RNA designations in the area.

Butch – last summer Butch spent a lot of time hiking around the area and really saw how much the people loved it. They had great things to say, and they also had a LOT of questions and wanted to learn more about the area, historic information, etc. The presentation at the January meeting, with the panel discussion on Steens Act history, was amazing and every SMAC member should watch it!

Tim – Thank you to the BLM for what they do with the wild horses; working to take care of them the best they can.

Karen – shared some things from Bill Marlett already regarding Bridge Creek. Should start thinking about Travel Management Planning. Malheur Field Station pointed out a public access place to the Alvord Desert and across the East Steens Road that is close to trails. Encouraged the BLM to consider some sort of ‘people camping’ on the east Steens area.

Teresa – remembered that several meetings ago we talked about the new “Public Lands Rule” and asked for more information. Jeff answered that it was adopted, and BLM is waiting for step down guidance on how to implement.

Mike – took the time for a “softie moment” to recognize soon-to- retire Burns BLM District Manager, Jeff Rose. Through all the hats Mike wears, he has had a lot of interaction with Jeff Rose – dating back over a decade. Wanted to take the time to thank and recognize Jeff, from the Council, in appreciation of his many years of splendid leadership at the BLM and exceptional stewardship of the SMAC. Jeff was grateful for the commendation and summarized a long career with one of the most important things

he learned and strives for: start with a yes. Then discussions focus on how we get to that answer/keep that answer.

Next meeting: October 10-11, 2024, at BLM Burns District Office – 28910 Hwy 20 W, Hines, OR 97738

October meeting agenda, potential topics (so far):

- DFO report (Steens Travel Management Planning, Bridge Creek AMP EIS, Steens Rockfall EA, Smyth-Kiger EA, IRA funding/projects)
- Fire + grazing use together
- East Steens uses, pressure, needs
- Public Lands Rule implementation
- Google Group use tutorial
- SMAC Strategic Planning/Steens Act Review: Inholder/edgeholder initiative; SMAC's "Reasonable Access for Reasonable Use" document
- SMAC Strategic Planning: Archaeology/indigenous people/Burns Paiute Tribe history on Steens Mountain

Minutes approved by/on:

A handwritten signature in black ink, appearing to be 'M. S.', written in a cursive style.