

Steens Mountain Advisory Council September 27–28, 2018 Summary Minutes - FINAL

The Steens Mountain Advisory Council (SMAC) met September 27–28, 2018, in Frenchglen, Oregon. On September 27, they had a tour on Steens Mountain. 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 a conflict of interest, Council members absent themselves from the meeting when the Council discusses matters in which a conflict of interest may occur.

Council Members Participating:

Kali Wilson, Grazing Permittee
Fred Otley, Grazing Permittee
Leon Peilstick, Wild Horse and Burro Management
John Helmer, Dispersed Recreation
Rod Klus, State Liaison

Other Participants/Observers/Presenters:

Tara Thissell, BLM, Public Affairs Specialist
Ruthie Danielson, Steens Mountain private landowner
Jamie McCormack, BLM, District Range Specialist
Mandy DeCroo, BLM, Assistant Field Manager for Andrews/Steens
Tom Wilcox, BLM, Wilderness Specialist
Dan Morse, Oregon Natural Desert Association, Conservation Director
Gordon Beck, Public
Andrew Fields, Roaring Springs Ranch
Rand Campbell, Silvies Valley Ranch
Colby Marshall, Nature's Advocate, LLC / Silvies Valley Ranch
Rhonda Karges, BLM, Andrew/Steens Resource Area Field Manager
Tara McLain, BLM, Lands and Realty Specialist

Tara Thissell welcomed everyone to the meeting.

Housekeeping

New membership appointments, effective September 14, 2018:

- Eric Hawley, Burns Paiute Tribe
- Terry Turner, Fish and Recreational Fishing
- Pete Runnels, Recreation Permit Holders
- Fred Otley, Grazing Permittee

Two members who reapplied for their positions (Owyhee and Karl), did not get reappointed. Also, Ruthie Danielson applied for the private landowner position and was not selected. The

private landowner position has to have Harney County Court support. Owyhee's position requires Governor support, and Karl's requires State Director support. All recommendations leave the Burns District Office and go to the Washington Office where they go through review and vetting. From there, they make selections that go forward to the White House for further review and vetting before they come back to the Secretary for appointment. Somewhere in the vetting, the decision was made to not move forward with Owyhee, Karl or Ruthie's applications. Burns District Bureau of Land Management (BLM) doesn't know why this happened, and may never.

The next round of application to the SMAC begins October 1.

John Helmer was tremendously disappointed and disturbed by the news because he feels the non-selected applicants are each very qualified. Owyhee and Karl are instrumental to SMAC's work with inholders. He thinks SMAC should ask for and get an explanation as to why their public service was turned down.

Fred Otley will write a letter of recommendation for all of them and encourage each to submit an application again. "They've contributed a lot, and there's a lot that they will do in the future if we can keep them involved in the SMAC."

There were additional comments in agreement about how valuable Owyhee and Karl's work for the SMAC has been. Also, there were questions as to what the members are doing on SMAC and why they're even trying. At least one other member questioned whether his own appointment would be renewed since Owyhee and Karl's were not.

Fred feels that the discussions SMAC has are very beneficial to the members and the BLM; all participants learn from them. Leon Pielstick thinks that Ruthie, as a person who lives on the Steens, would have a lot to add to the discussions.

John feels that the failure to reappoint Karl and Owyhee has a "chilling" effect on the members' freedom to express their opinions. "On our best day, we're going to have seven people; a quorum requires nine." He feels like the entire time he's been on SMAC, it's been administratively hamstrung.

John made a motion to ask, as the SMAC, for an explanation for not reappointing Owyhee and Karl, and for not appointing Ruthie. Kali seconded. Motion passed. **John will take the lead on the correspondence.** Rhonda reminded the SMAC that they can't speak as a group because they don't have a quorum, but they could sign the correspondence as individuals.

Tara T. let the SMAC know they are not the only advisory council struggling to get reappointments passed; the same happened just recently with the Southeast Oregon RAC. As far as the rest of the RAC issues (charter renewals, lengthy Federal Register Notice process, slow nomination and appointment process) – those are everywhere, in all the states that have RACs.

John wondered, if they go forward, how do they operate as SMAC when they have significant constituencies that are not represented? They will presumably go forward with no environmental, local or State, representation. They'll have no landowner representation. "We need to make special efforts to reach out to those groups somehow." SMAC is weakened by not having those perspectives at the table.

John would like the SMAC to draft letters officially thanking Owyhee and Karl for their service. Rhonda said that BLM does send a gift.

John also pointed out that the roster on the SMAC website is out of date and added that an orientation/introduction to how SMAC works to bring new people up to speed would be beneficial. **Tara T. will get the roster updated and make sure an orientation is on the next meeting agenda.**

Tara T. asked if the SMAC would like to plan the entire 2019 calendar year. Kali thinks it should be tentative until the new members can be included. **Tara T. will send a Doodle poll with meeting date alternatives.** The Federal Register requires a minimum of a 70-day lead. This means the agenda needs to be planned at least 70 days ahead, with 90 being better.

In response to a question about whether the actual meeting can vary from the posted agenda, Tara T. replied that some accommodation can be made but certain things, like the timing of the field trip, public comment period, etc., cannot be changed. For instance, if the agenda says public comment will be at 2:00, even if it starts earlier, the committee must still be there at 2:00 for any public commenters that show up at that time.

Fred motioned that BLM survey the SMAC using a Doodle poll, that the next meeting be sometime between the middle of December and the middle of January, and that the poll cover agenda items so that Tara can get notice to the Federal Register in a timely manner. The motion was seconded and passed.

Kali was elected chair. Tara will look up protocols regarding chair-elect. The question was asked whether Kali would be picking up the rest of Owyhee's term or restarting. It was decided Kali's term would go through 2019.

The previous meeting's minutes were corrected and clarified, and a motion was made to accept them. Motion passed with majority. John abstained from voting because the last meeting had been so long ago, he really couldn't verify the minutes were accurate.

John set up a Google site for SMAC documentation: bit.ly/SMAC_docs. Tara T. thanked John for setting up the site and said it's much cleaner than email.

Leon led the follow up of the previous day's field trip. He thinks it's valuable to get outside and see what SMAC discusses on the ground. He brought up a historic road that Fred noticed while they were on the tour and suggested that it might be a pre-existing access point to the property.

Fred feels strongly that there has to be access to the private party in question, and that it must 1) be access that accommodates the full economic use of the land, and 2) represent the historical access routes to fully meet the reasonable use of that private land. He explained how, historically, homesteads were shaped the way they were based on access to the property and water for livestock. He believes there would have been multiple access points to inholdings so that landowners could access their property 10–12 months a year. He spoke of how nature can reclaim roads. During the field tour, when crossing Dry Creek, he thought he saw a road. He walked down a couple hundred yards and saw an old salting barrel “where they had to have driven vehicles to salt for grazing in that allotment and on private land.” He thinks it's important to note this road and confirm whether it was a historical access road or not.

Kali didn't have much to add but commented that on the drive it was nice to see the juniper thinning that had been happening. John thanked the BLM staff for providing the staff and equipment for the day, then spoke of his agreement with Leon's view that it's really important and useful to see the issues on the ground.

Rhonda said she plans to try to go back out with her staff to take photos of the road Fred saw within the next couple weeks. Leon agrees with Fred that there was definitely a road there that needs to be looked at as an access point.

Inholder Issue Update

John said that in early 2017, maybe 2016, SMAC was engaged in some self-examination. “What do we want to do, why are we here, what can we work on?” They wanted to address causes of problems, not just the symptoms. SMAC held a very well attended stakeholders' meeting on April 20 of last year in Burns, resulting in strong endorsement to explore what SMAC could do to put together some purchases or trades of properties. Six subgroups were formed; they were Nature's Advocate (Owyhee and Karl), Roaring Springs (John and Owyhee), Pete Runnels / Harney County (Kali and Leon), George Stroemple (John and Karl), Dave Haugeberg (Owyhee and Fred), and Paul Davis (Leon and Kali). SMAC drafted a formal document stating that these were their subgroups, and the charge of each was to work with a willing landowner to clarify his interests and develop a specific land exchange or purchase that would convert an inholding or edgeholding to wilderness. SMAC set themselves a deadline of March 2019 to have draft deals. SMAC remains open to legislation as a technique that might be used on some of these. The subgroups have been working with the landowners and talking via conference call once a month to touch base.

After giving that background, John continued to say that the intent today was to report on progress to date. Also, due to the loss of Karl and Owyhee, the teams would need to be rebuilt.

All the landowners were told SMAC was going to do an update at this meeting and were invited to give their own view or submit something in writing if they wanted.

Nature's Advocate:

John and Owyhee had a very useful tour with Colby Marshall. Owyhee is willing to continue working on this but feels she shouldn't be the lead since she's no longer on the SMAC. Leon is willing to take over as lead. John doesn't know if Karl is willing to continue or not since he hasn't had a chance to speak to him. Thank you to Owyhee for being willing to continue her involvement as a member of the public.

Roaring Springs:

Stacy Davies and John have traded calls but not had a chance to have an initial discussion about what might be possible. John has told Stacy he thinks they need to get that done by December if they're going to meet the March deadline.

Pete Runnels / Harney County:

Leon reported that he visited Pete and the county has two properties that might be suitable for exchange or sale, but right now they just want to wait and see. They're in no rush to dispose of them.

George Stroemple:

George asked John Freeman, his longtime friend and business associate, to represent his interests in the discussion. John Freeman went to the April 20 meeting and was forthcoming about what might be possible. John Helmer has also met with George in his office in the Portland area and has a sketch of what he would like to see happen. John's said the key is going to be "agreeing on another appraisal, the appraiser, and how the appraisal is done (protocols)," and then negotiating or continuing the discussion based on the appraisal. Fred believes part of the value of property is its use and enjoyment, which is not necessarily taken into consideration by an appraisal.

Dave Haugeberg:

John relayed what Owyhee had told him in the monthly calls. She found her discussions with Dave Haugeberg to be very productive and would like to see that continue.

Pike Creek:

Paul told Leon BLM should go ahead and build the parking lot on the south side of Pike Creek and Paul would put boulders along the sides. He also plans to build a campground on the north side of Pike Creek. As far as Leon is concerned, this issue is resolved. John wanted to thank Kali and Leon for their work on the Pike Creek issue. Leon added thanks to Rod.

Tara Thissell introduced Tara McLain of the Lands and Realty Program with the Burns District BLM.

Tara T. asked if SMAC had any questions for Tara M. regarding the inholder initiative update.

Fred asked about the road into David Haugeberg's property. Tara M. said Dave is welcome to continue casual use of the road and to apply for a right-of-way if he wishes. The reason he is pursuing a land exchange is that he wants to maintain/improve the road more than is allowable in a WSA. Tara M. reached out to him a few times to see if he still wanted to discuss any of the trade options, and the last email she got from him, he indicated that he was going to talk to Congress.

Regarding an exchange with Paul Davis, Tara M. said that in her last conversation with Davis and Haugeberg, which was with both of them together, Paul instructed her not to talk to him about the land exchange, negotiations were to be through Dave, who Paul had authorized to speak for him.

Land exchanges are discretionary, but anyone, at any time, can bring BLM a proposal for a land exchange. The BLM puts it through a score sheet with an interdisciplinary team where they determine whether there's a public benefit to the proposed action. The Government Accountability Office has changed the way land exchanges are approached because they are very time consuming and expensive. A land exchange can't happen just because it makes sense; there has to also be a public benefit to go forward with the exchange.

Deciding whether there's a public benefit is just the first step. After that, the manager has to weigh the land exchange with the rest of the workload because many actions, like right-of-way decisions, are not discretionary. So nondiscretionary workload comes first. Land exchanges are discretionary so management has to determine whether there's enough staff time to deal with them in addition to the nondiscretionary workload.

Currently, Tara M. is in the decision phase for the Diamond Craters Land Exchange and has a proposal for a land exchange in the Trout Creeks.

Kali asked if a landowner has to pay for a right-of-way. Tara M. replied that if it isn't an easement/right-of-way trade, there are cost processing fees based on the number of hours it takes staff to do the environmental review to determine whether or not to grant the right-of-way. A category one is less than eight hours of staff time and costs \$124. If the determination requires an environmental assessment (EA), it would probably fall into category four (which can be processed in less than forty hours) and cost \$1000. A right-of-way across WSA for which an EA had to be done would probably require BLM to estimate how much it would cost and then the applicant would be charged the estimated amount, and any money left in the account would be refunded to the applicant after the determination was complete.

Fred asked if rights-of-way exist in perpetuity or have specific terms. Tara M. replied that most rights-of-way have a term of 20–30 years. The right-of-way paperwork tells the holder when he needs to reapply, and the manager makes a decision whether to renew. Tara M. has never seen one that's been denied when it came up for renewal but says it is possible. The BLM has an

automated system that has all the expiration dates in it, and Tara M. runs a report at the end of every year that tells her what rights-of-way are expiring in the coming year. Some grants are granted in perpetuity to county or local governments or ODOT or in cases of easement/right-of-way trade.

Nature's Advocate Update

Rhonda told the SMAC that the EA has been completed at the district level and sent to the State Office and the solicitor's office, who had many comments and questions. Burns District has been waiting for direction from the State Director on how to proceed. Rhonda got permission to go ahead and have it sent out last week. None of the solicitor comments have been incorporated yet, and Rhonda hopes to get to that in the near future, but for now, the project lead has another priority that he needs to work on. Rhonda hopes to start going through the comments next month.

John commented that the SMAC hasn't seen the EA since last year and asked if the document could be shared. Rhonda replied that since it currently has the solicitor's comments on it, we can't share it. SMAC may be able to see it at the next meeting or we could send it out. Rhonda doesn't expect there to be much in the way of surprises for the SMAC; their alternative is still in the document.

Tara M. explained land exchanges versus sale and purchase. With a land exchange, a property owner brings BLM a proposal that identifies which public lands they would like to acquire and which private lands they would like to sell. A land exchange goes through a long process where first BLM completes a report in which the specialists demonstrate the public benefit to the Washington Office. The report goes through State Office and solicitor review and then it's sent back to the Washington Office. When it comes back from there, there are a series of things that need to be done simultaneously. One is an appraisal. The BLM tries to keep the trade value as close as possible so we have different set ups so we can drop public lands out or add them as necessary to be as close to equal as possible. Cash equalization is possible depending on the current administration and within regulation (within 15 percent). When the exchange is agreed on, we go to the title office, and they sell and we acquire all in one swoop.

The Federal Land Transaction Facilitation Act (FLTFA) was originally authorized in 2000. Previously, any money for disposal of public lands went into the general treasury and was used for whatever the U.S. Government chose. In 2000 with FLTFA, they said that all lands that were identified as disposal from that point on could be used by BLM to acquire lands for public benefit. FLTFA had to be reauthorized every year, and for quite a period, it wasn't reauthorized at all. On March 7, 2018, FLTFA was permanently reauthorized but BLM doesn't have any guidance on it yet. The fact sheet Tara M. provided is from a conservation organization.

On the Burns District, the Steens Mountain Resource Management Plan (RMP) was authorized in 2005, so lands that are identified for disposal in the Steens Mountain RMP would qualify for FLTFA because it was after that date. Lands in the Three Rivers Resource Area, for which the RMP was done in 1992, would not qualify.

Kali asked if we have money set aside to purchase lands. Tara M. said that's what she's been told, but she doesn't know of any specific fund. She thinks a purchase on the Steens would be very competitive, but we'd still have to apply for it, and then it would depend on what it's up against. About 5 years ago, John Brandis had a couple of inholdings within the wilderness, and he'd sought a land exchange for years; it just never worked out. After he passed away, his son contacted BLM and we were able to purchase those lands with no issues. They were small parcels though, and the cost was around \$18,000. We had the money for that. Tara doesn't know if it would work the same way if we were talking about a few hundred thousand dollars.

John asked how long a land exchange takes. Tara M. replied that the one she's working on now that's in the decision phase started in 2012, but there was a change in administration that may have affected the timeline. Typically 5–6 years.

Land purchases by non-governmental organizations (NGO) were discussed. An NGO can acquire lands with a more reasonable timeframe than BLM can. However, they are still looking at appraised value because they need to get their money back when they resell. Various NGOs were mentioned by various participants. The BLM does not reach out to NGOs to ask them to purchase lands.

Designated Federal Official Update (Rhonda)

No Livestock Grazing Area fencing: The easternmost inholding has been fenced. The contract was awarded to a local contractor.

In legislation, the county's brief was received for the Travel Management Plan.

Personnel actions were taken:

- Mandy DeCroo has been promoted to Assistant Field Manager; her old position is being advertised (Outdoor Recreation Planner).
- Lindsay Davies is the new Planning and Environmental Coordinator.
- Steph Bonson has been hired as a Range Technician.
- Dory Seeley has been promoted to a GS-09 Recreation Planner.
- Scott Thomas retired; Carolyn Temple is currently detailed into the District Archaeologist.
- Katie Rhode will begin as the new Geologist in October.

Ruby Springs Allotment Management Plan (AMP) and permit renewal with improvements went out to the public. A couple comments were received from landowners.

Alvord AMP is being worked on; the decision is expected at the beginning of 2019.

The U.S. Fish and Wildlife Service needs to be involved in the Pike Creek Parking Lot EA process due to the creek containing Lahontan Trout. The EA may be out next month.

There were 24 fires on district this summer, 15 caused by lightning and 9 human-caused.

Mann Lake is dry. Fred commented that this year's drought exceeded the severity of the 1992 drought. He noted that landscape level juniper treatments helped mitigate the drought in some areas.

Recreation Program Update and Review (Mandy DeCroo)

Mostly FY17 data was presented. Mandy shared traffic counter and trail counter numbers as well as information about Burns District Recreation Program's local economic contribution.

There were seven special recreation permits (SRP) specific to the CMPA issued in FY17. Four were research-based. Mandy explained the difference between letters of agreement and SRPs.

The renewed 10-year permit for Steens Mountain Running Camp will begin in 2019 and will include the option for a third week of camp.

A stargazing permit was issued for 2018.

Recreation projects:

- A well was drilled at Riddle Brothers Ranch. There is not enough pressure for fire suppression use/greening around the buildings. Fred and John gave suggestions; Mandy said engineering staff are looking at the options. Thanks from John to the drillers/installers.
- The Levi Brinkley Trail was completed and dedicated.
- The North Steens Equestrian Campground well ran out of funds. The driller will be back this fall.
- Quote received for Kiger Overlook ADA accessible parking lot, rails, sidewalks, etc.
- Six miles of new trail were constructed. (John mentioned that a neighboring landowner, Renee, would like to discuss access trail placement for Penland.)
- Six miles of new trail were constructed. (John asked about his earlier email requesting that Renee Stroemple be invited to provide input on trail placement for the new Penland horse camp. Mandy said that design work had not yet started but that Renee would have the opportunity to provide input.)
- A new water trough was installed at Cold Springs.
- Trails and fences were worked on by 18 volunteers.
- In 2018, vault toilets were installed at Fields and Frog Springs.
- There is a new kiosk at South Steens entrance.
- Black Canyon gate was moved.
- Three campsites are being moved at Fish Lake due to flooding.
- An additional toilet will be installed at Fish Lake.

- The BLM was unable to secure an easement at Home Creek and Three Mile. A small parking lot will begin being built next week.

A restroom at the turkey foot junction will not be installed due to visual resource management issues.

The SMAC expressed their appreciation of recreation's accomplishments, especially the toilets!

Outcome Based Grazing (Jamie McCormack)

The Public Range Improvement Act opened the door for more cooperative relationships with permittees. Outcome-based grazing is a national effort that showcases flexibility in the grazing program. The program is voluntary.

Eleven pilot projects were selected, including two in Oregon.

Under the program, permits are defined in terms of objectives instead of calendar dates and will vary from allotment to allotment. Burns District has actually been implementing this type of option for some time. Fred thinks this will be a great tool concerning controlling invasive grasses and fire and for supporting sage-grouse.

Round Table

Leon loved the tour and the discussion. Wild horse advocates are raising lots of questions about management. The Warm Springs gather is getting ready to begin. He spoke about the spay research planned.

Fred is allowing BLM to use his land for the gather and sorting. He talked about the water shortage in the area.

Rod Klus said the newest sage-grouse population report just came out. There's been a 10 percent decrease in the area. Many leks were lost to fire. Overpopulation of horses doesn't help. **Rod (or Tara T.) will email the report to the SMAC members.**

John sent a recreation report via email on September 16 and Tara provided printed copies at the meeting. Visitors to Steens Mountain have a lot of questions and love the wild aspect of the mountain.

Public Comment

Dan Morse, Oregon Natural Desert Association, agrees with the SMAC about their plans to inquire about the reasons for not renewing SMAC appointments for Karl and Owyhee. He thinks it was unfortunate and wrong that they weren't reappointed. By inhibiting the advisory council appointments, BLM is being hindered. This is a "pure political problem" that requires a political solution. One approach would be to "create a problem" by refusing to serve.

Colby appreciates the SMAC and is also disappointed about the full committee not being approved. He encourages SMAC review of the Nature's Advocate EA before it is released to the public. He quoted from the Steens Act, "No recommendation...may be presented...to the secretary...nine members." Rhonda is fine with SMAC seeing the EA before it goes out to the public. John wants to be sure SMAC's rationale for their alternative stays in.

Ruthie thanked the BLM and SMAC for allowing her to join the tour. She spoke about a couple signs on the Steens Loop that had been vandalized, one of which was removed and never replaced. Rhonda responded that BLM is aware of the sign issues.

Last year, Steens Mountain Fire Association was looking at access roads/ways that go through WSA and are restricted for maintenance. Ruthie asked how long a piece of property remains a WSA. Rhonda replied until Congress says otherwise. The BLM can no longer designate WSAs. Rhonda clarified that while 'ways' are normally only maintained by passage of vehicles, in a matter of emergency or danger BLM can give permission for more maintenance.

Ruthie hasn't decided yet whether she will resubmit her application for the SMAC.

John said that continuing to serve on SMAC may amount to buying into a process that should not be supported. It is not right to continue serving if SMAC is not a place where all ideas can be expressed.

John would like to hear about archaeological issues and priorities in the Burns District. He also shared Peter Walker's book *Sagebrush Collaboration: How Harney County Defeated the Takeover of the Malheur Wildlife Refuge* (some SMAC members contributed to the research).

Next Meeting

Kali and Tara T. will work on the agenda for the next meeting. Some items to be included are:

- Inholder initiative
- New member orientation
- FY18 recreation update
- Water rights
- Nature's Advocate EA
- WSA resolution
- Where we are with member applications (John suggested Claire Smith and John Ross might be interested in serving on SMAC. Claire confirmed that she might be interested after she's been in the area for a while.)