

# Steens Mountain Advisory Council

## **FINAL** November 28-29, 2012 Summary Minutes

The Steens Mountain Advisory Council (SMAC) met on November 28 and 29 at Phoenix Inn and Suites in Bend, Oregon. This document summarizes attendance, discussions that occurred and decisions made.

### *Council members in attendance included:*

Daniel Haak (Chair, Mechanized or Consumptive Recreation),  
David Bilyeu (Vice Chair, State Environmental Representative),  
Stacy Davies (Grazing Permittee),  
Fred Otley (Private Landowner),  
William Renwick (Local Environmental Representative), and  
Hoyt Wilson (Grazing Permittee).  
Richard Angstrom (No Financial Interest),  
Tom Davis (Fish & Recreational Fishing),

### *Members not present included:*

Wild Horse Management representative (vacant),  
Burns Paiute Tribal Member (vacant), and  
State Liaison (vacant).  
Richard Jenkins (Recreational Permit Holder),  
Pam Hardy (Dispersed Recreation),

### *Other participants/observers/presenters included:*

Kirk Davies (Eastern Oregon Agriculture Research Service; Thursday only)  
Brenda Smith (Eastern Oregon Agriculture Research Service; Thursday only)  
Designated Federal Official (DFO) Rhonda Karges (Andrews/Steens Resource Area Field Manager),  
DFO's Assistant Tara Martinak (Public Affairs Specialist, BLM),  
Facilitator Jerry Hubbard (BLM, OR/WA State Office),  
Michelle Brown (BLM Supervisory Natural Resource Specialist - Recreation),  
Eric Haakenson (Outdoor Recreation Planner),  
Tom Wilcox (Outdoor Recreation Planner – Wilderness),  
Jana Mort (District Water Rights Specialist),  
Jack Rinn (private citizen),  
Ann Haak (private citizen; Friday only),  
Dan Morse (Oregon Natural Desert Association; Thursday only),  
Matt McPheron (private citizen, Friday only), and  
Paul Davis (private citizen; Friday only).

### **THURSDAY, NOVEMBER 28, 2012**

Chairperson Dan Haak and Facilitator Jerry Hubbard opened the meeting with a reminder of meeting protocols and general operating procedures. David Bilyeu stated Pam Hardy would not attend the meeting in person, but is available through conference call if necessary. Those in attendance introduced themselves before moving forward with review of the agenda.

Hoyt Wilson asked about the change in Designated Federal Official (DFO) for the SMAC. When the SMAC was established, the Andrews/Steens Resource Area Field Manager served as the DFO. A change in personnel with the BLM and a request by the SMAC led to a change in the DFO to the Burns District Manager. With another change in personnel, the DFO will return to the Andrews/Steens Resource Area Field Manager. Wilson was concerned there may be some implications with the change in DFO and felt it is important to have the District Manager attend and participate in the SMAC meetings. This also shows dedication from the BLM

and shows the agency's value in the Council and their work. Stacy Davies pointed out that most decisions for the Steens CMPA will be made by the Andrews/Steens Resource Area Field Manager. Rhonda Karges assured the Council she would keep the District Manager aware of issues and concerns from the SMAC and share unfiltered information often and consistently. After some discussion, the SMAC agreed the DFO would be the Andrews/Steens Resource Area Field Manager and the District Manager would be requested to attend Council meetings where high-level, political, or controversial issues are discussed and/or where upper management decision-making is necessary. It was also agreed the District Manager would participate in the SMAC meeting agenda-setting process with the Chairperson, SMAC Coordinator and the DFO. Rhonda Karges will share this information with Burns District Manager Brendan Cain.

### **DESIGNATED FEDERAL OFFICIAL'S UPDATE**

Rhonda Karges:

- North Steens Ecosystem Restoration Project:
  - o Approximately 2,000 acres of juniper within the project area were cut in preparation in 2012 for the Moon Hill prescribed fire.
  - o The OWEB also has a juniper cut/machine pile contract for 250 acres in the works.
  - o In the Tombstone unit (non-Wilderness Study Area) in the South Steens area, approximately 500 acres of hand-piling is in progress.
  - o Also, 200 acres in Wilderness Study Area in the project boundary are being cut and machine piled.
  - o In the Riddle Brothers Ranch area, another 44 acres of juniper were cut. A total of 84 acres in that area need to be burned.
  - o The Blitzen Stewardship Contract was released recently. The contract is for 10 years; the BLM will lay out the units of work and when funding becomes available, the work will be issued and so forth. Bill Renwick asked if the BLM could send a map to the Council of the Blitzen Stewardship Contract area. Karges stated the work could be anywhere within the North Steens Ecosystem Restoration Project area boundary.
  - o Completion of all work is weather/access dependent.
  - o Hoyt Wilson inquired about landscape burning and if it was still acceptable (vs. cutting and piling) – Karges stated 'yes,' but it depends on the distance from a Sage-Grouse lek. Karges also clarified the intent of stewardship contracting and that it is basically a trade for goods and services (there is no commercial sale of timber from the BLM to the contractor in stewardship projects).
- South Steens Allotment Management Plan (AMP) Environmental Assessment (EA): Chapter 3 (affected environment/environmental consequences) is currently at the OR/WA BLM State Office for review. Karges expects the document to be returned to the District in late January or early February 2013.
  - o Hoyt Wilson asked if the wording in the BLM's new WSA manual will affect any of the language in the South Steens AMP EA. Karges stated the agency *will* work through the new manual to make those determinations, but has not yet tackled such a review. An update on the new WSA manual is on the agenda for Friday's session and should provide solid information toward this effort.
- The upper-most section of the Steens Mountain Loop Road is closed for the season due to snow.
- The Rooster Comb section of the Steens Mountain Loop Road has an area that is sloughing off on one side; engineers are working on solutions and hope to get it fixed before the summer 2013 season.
- The first section of the Riddle Brothers Ranch road (up until the Wild and Scenic River (WSR) Corridor) has been maintained. There is an injunction against upgrading or maintaining the road *within* the WSR corridor, however, the BLM has met all the requirements relating to the injunction and is working to have it lifted.
- Litigation:
  - o Steens Mountain Travel Management Plan: Most recently, the judge denied the Oregon Natural Desert Associations (ONDA) motion to reconsider in the case. The case will go back to Interior Board of Land Appeals (IBLA).
  - o North Steens Transmission Line: The ONDA filed a brief in court on November 21, 2012. The BLM has until December 19, 2012 to respond.
  - o North Steens Ecosystem: Will go back to IBLA to discuss off-road travel in WSAs for machine cutting/piling juniper.

- August 28 lawsuit – working on AR.
  - Roaring Springs Ranch filed a motion to reopen the ONDA vs. BLM lawsuit regarding maintenance on Burnt Car Road. The BLM’s response to the motion is due December 7, 2012.
  - ONDA recently wrote a letter to BLM regarding the rehabilitation efforts that occurred on Burnt Car Road and how they correlate with the settlement agreement pertaining to this case.
- Miller Homestead wildfire rehabilitation: Approximately 17,000 acres have been drill-seeded at a rate of 750 acres per day. A contract for aerial seeding is currently out for bid. All boundary fences have been repaired and a contract for repairing/replacing interior fences is in the works. A new tool called “biological thinning” was put into the Decision Record for the rehabilitation EA, which will allow the use of livestock to graze an area for short, quick durations based on monitoring and the need to combat invasive species. Fred Otley supports biological thinning and emphasized the importance of having water ready and available in areas where livestock may be utilized. Stacy Davies also expressed interest for biological thinning and encouraged the BLM to be proactive in preparing for the opportunities to utilize it (livestock accessible, permittees contacted ahead of time, plans B and C on the radar, adequate quantities and types of livestock available and ready, etc.)
  - Holloway wildfire rehabilitation: The staff is still working on the stabilization and rehabilitation EA; hope to have it completed in the next few weeks. Staff is already working on boundary fencing. Aerial seeding, fence construction (approximately 6 miles to close the area to livestock grazing during recovery), etc. are in the rehabilitation plan. The Holloway fire burned in the Burns, Lakeview and Winnemucca Districts. The Burns District took the lead for all the Districts in completing the initial Emergency Stabilization and Rehabilitation Plan. Now, each District will complete their own EA for the continued rehabilitation work.
  - The Oregon Department of Fish and Wildlife (ODFW) released 20 bighorn sheep ewes between Castle Rock Creek and Mann Creek on the east side of Steens Mountain. The sheep were added to the population to help diversify the genetic balance in the herd(s) there.

Fred Otley stated there were rumors that the bridges on the Foster Flat Road were taken out (dozed) during the Miller Homestead Fire. Otley asked if that was, indeed, the case, and if it was, to make sure something is done to remedy the situation – water run-off in that area is a huge issue and will become a problem if the bridges are not replaced.

Jerry Hubbard stated there was a nice piece on Oregon Public Broadcasting regarding juniper management and wildfire restoration. Check it out!

### **MEDUSAHEAD PRESENTATION**

Brenda Smith from the Eastern Oregon Agricultural Resource Center stated she has a reference list for biological thinning information and could provide it to the BLM and the Council. Smith has been working on a regional invasive annual grass project involving 5 states in the Great Basin to try and come up with more effective management strategies for primarily Medusahead and Cheatgrass. Smith wants to discuss the ecology side of Medusahead and follow up with prevention information.

What does ecology have to do with managing Medusahead? Medusahead is a symptom of something that isn’t going right in the system...there are ecological systems that are in disrepair that are causing this infestation. As managers, we have the ability to manage these processes so we can give the desired species a competitive advantage. Medusahead is an important problem because it is a transformer species – it can create such a change on the landscape that we may never be able to bring the landscape back to a reasonable state. This is an ecological and an economical threat and could occur over a large area. Cheatgrass, Ventenata, leafy spurge, yellow star thistle – all of these are introduced species that could create a very negative mono-culture across an entire landscape.

All plants adapt in a way to figure out how to survive in their ecosystems. Medusahead is a winter annual plant, which means it is germinating in the winter while our native perennial plants basically go into hibernation/survival mode. The life-strategy traits of Medusahead give them a competitive advantage against

native grasses.

Plant communities are always changing (succession). In order for succession to occur, there must be; 1) site availability, 2) species availability, and 3) species performance – germinate, grow, reproduce. Using this information, we can manage more effectively by removing or changing one or more of the necessities for succession – reduce site availability, prevent seed dispersal and production (using herbicide, for example), etc. Stressing the invasive plants without stressing desirable plants will allow us to shift the competitive balance on the ground.

If you don't have Medusahead, how can you actually prevent it from coming into an area? This is such an important aspect of Medusahead management overall. Preventing spread is the most proactive and time and cost effective way of managing invasive species. An effective prevention program is spread across three facets: 1) education and awareness, 2) interrupting dispersal of invasives (figure out the spread vectors – humans, livestock, etc. and 3) where invasives are spreading to, and how to know if the plant spreads and what to do about it (surveying on the ground, mapping, implementing an established eradication program, etc.). Management of Medusahead can be a puzzle, but it will really help to focus on what is really happening in the ecosystem, integrating all the tools available to combat spread, and emphasizing the importance of prevention.

Kirk Davies, also from the Eastern Oregon Agriculture Research Center, continued the Medusahead presentation. One of the main reasons we want to re-vegetate Medusahead infestations is to return some of the ecological services and functions assistance to the ecosystem, and to eliminate the seed source for other potential infestations. Invasives have a huge impact on bio-diversity (wildlife, livestock, forage production, etc.). There are a variety of treatments that have been proposed and researched for managing Medusahead – burning and grazing don't seem to work in our area for a variety of reasons. The ultimate goal is to control Medusahead while releasing residual vegetation. Combinations of treatments (burning – to increase native perennial bunchgrass growth potential, reduce the thatch layer and release nutrients into the soil, and spraying with herbicide – to combat invasive species) seem to provide the most success, and no combination worked independently without the addition of the herbicide Imazapic. Davies referred to a picture displayed for the Council that showed post-fire treatment research plots with and without Imazapic application – the release on residual vegetation (native perennial bunchgrass) was similar in each plot (though not sustainable/adequate), however, the plot with the Imazapic showed much less return of invasives.

Fred Otle added that a key element relating to disturbance is the type of seed bed that exists in an area. A commonality between invasives is they like loose soil and lots of vegetative matter. Davies continued with emphasis on the importance of reestablishing native perennial bunchgrass communities. As these communities increase, they overlap the most with Medusahead in terms of when they take resources out of the soil. They also are the dominant herbaceous function group, so in the native setting, the perennial bunchgrasses have the understory filled with their abundance (eliminating site availability for invasive infestations). Native plant seedlings may not be competitive with Medusahead, but fully established plants *are*. There are several different research projects that support this evidence. Re-vegetation after exotic plant control is essential. Davies discussed a particular project in the Riddle Mountain area in southeast Oregon (north Steens Mountain). Crested wheatgrass is often used initially in re-vegetation efforts because the plant is sturdy and competitive enough to challenge exotics while also providing cover for slower-maturing forbs and other native annual and perennial grasses. Though crested wheatgrass is not a native plant to this area, it does function very similarly to our native plant communities. Heavy grazing in spring on crested wheatgrass has shown to help bring native plants back sooner (livestock show preference to crested wheatgrass over native species in the spring).

Treating and eradicating infestations is expensive, but the cost is worth it in the long run, and contributing funds toward prevention and education is equally, if not more, important.

Davies discussed native seed mixes vs. non-native seed mixes uses in re-vegetation efforts. He gave a list of what would be included in each mix and reviewed the results: introduced seed mixes proved to be very successful with approximately 9 plants per meter while native seed mixes had 2 plants per meter square (much

less effective).

The Agriculture Research Center also did a study on the effects of burning and spraying with Imazapic then seeding immediately thereafter (plot 1) vs. burning and spraying with Imazapic and then waiting 1 year to seed (plot 2). The research plots were side by side and a non-native seed mix was used for re-vegetation. Plot 1 showed little to no success while plot 2 showed very positive results – it is worth the wait to spray with Imazapic and then introduce seed 1 year later. Successful treatments in our area almost always require use of some sort of pre-emergent herbicide. Prescribed burning with use of Imazapic thereafter has shown the most success in managing Medusahead. In re-vegetation efforts, native seed mixes have been more successful in higher elevations while non-native mixes typically dominate lower elevations.

Bill Renwick shared his appreciation for the Agriculture Research Center and the research they are doing and the ways they are trying to affect change on the landscape. Renwick added there is science available that shows some of the invasives are advanced because of higher levels of atmospheric carbon, but he understands the Ag Medusahead is an opportunist – it will invade wherever there is a site available. There is a very small window where livestock will actually graze Medusahead due to its high silica levels. Cheatgrass has a longer window for grazing. Renwick showed support for ecologically based integrated pest management as well.

Fred Otley asked Rhonda Karges about two concepts: 1) Managing Medusahead is a multi-year commitment – it takes a tremendous amount of follow through and consistency, and 2) Is there a Programmatic EA that allows BLM to better manage Medusahead and other invasives with more staff, partners/cooperators, funding, ability to use heavier herbicides, etc. – can the SMAC help at all toward this effort? Karges stated there is a process in place to address this very subject. All OR/WA BLM Districts are working on Vegetation Treatments EAs that will serve as a “step-down” to the Statewide Vegetation Treatments Environmental Impact Statement. However, the process on the EAs has been slow and cumbersome, so the Burns District has analyzed the use of Imazapic or Plateau herbicides in other National Environmental Policy Act documents for specific projects in the District, such as Allotment Management Plans, etc.

Otley continued by thanking the Agriculture Research Service for the best presentation he has ever heard on Medusahead. Bill Renwick stated the Agriculture Research Service and Oregon State University are working hard on outreach and exposing the public to the valuable research they are doing. Brenda Smith encouraged the idea of preventing Medusahead to remain in the forefront and a top priority for where to allocate resources. Stacy Davies inquired about areas that are not completely invaded by invasives and have only isolated infestations (single plants or slightly larger). Smith suggested going into eradication mode...spraying with something like Round-Up and then using Plateau or Imazapic. Otley stated the SMAC would be able to put together a letter emphasizing the value of this type of research and supporting continued efforts – Fred will write the first draft of the letter and present it to the SMAC at the next meeting for their review.

A copy of the Medusahead presentation is attached to this meeting summary.

### **PUBLIC COMMENT**

Jack Rinn, private citizen, wanted to compliment the BLM on their work with so many people who all consider their priorities and interests the most important. Rinn asked how the SMAC meeting agendas are set and hoped it wasn't a last minute effort to try to invent something that isn't controversial and will appease everyone. Rinn also addressed the Agriculture Research Center folks and encouraged them to wander into the world of cost-benefit when doing research. Lastly, Rinn wanted to discuss management of designated Wilderness and Wilderness Study Areas. The IBLA has ruled that wherever there is a conflict with the Steens Mountain Cooperative Management and Protection Area Act of 2000 (Steens Act) and the 1964 Wilderness Act, the Steens Act prevails – Rinn is hoping this point is clear and apparent in the BLM's new Wilderness and Wilderness Study Area management manuals.

Dan Haak discussed how SMAC meeting agendas are set – the BLM comes to the SMAC and asks for advice on issues within the Steens Mountain Cooperative Management and Protection Area (CMPA), and vice

versa...the SMAC may bring issues to the BLM they have an interest in or would like to provide input on. There are few to no issues the SMAC does not address or discuss. There is always room for the Council and the public to suggest agenda topics.

Bill Renwick commented on the Steens Act vs. Wilderness Act debate (which trumps which, and when). There are often conflicting laws and statutes to work through. It has helped to have Solicitor opinion when these conflicts arise. Renwick stated that litigation isn't always a bad thing – it can help straighten out contentious issues and lay policy for future actions.

Stacy Davies clarified the new Wilderness and Wilderness Study Area manuals are for the entire BLM and will apply to public lands nationwide. Rich Angstrom commented on the legal construction of law-making and assumed that generally, the most recent law serves as the controller when there is a conflict. However, what generally happens in practice is that Solicitors and the agencies try to read the laws together where there isn't conflict and interpret them in a way that is continuous. The SMAC has focused on the fact that the Steens Act is very unique, however, it isn't the 'Holy Grail' for management in the Steens area – the BLM has other laws and policies and competing interests that need to be addressed.

Dan Morse introduced himself as the Conservation Director for the ONDA. Morse is new to Oregon and looks forward to getting to know the Council and agency representatives. Morse is a native Coloradan and is an outdoorsman – camper, hiker, skier, fly-fisher, father of 3-month old twins. He has had a long interest in natural resource issues. Morse thinks the staff in the BLM field offices work very hard every day to make the right decisions for the land – he very much respects those employees. Fred Otley pointed out the necessity of finding common ground with the interested and managing parties to do what is right for the land.

### **STEENS MOUNTAIN COMPREHENSIVE RECREATION PLAN**

Eric Haakenson wanted to review where the Comprehensive Recreation Plan (CRP) is in the development process, including a recap of SMAC recommendations/suggestions and a discussion on trail proposals:

- Use the words “day use only” instead of “no camping” at places where camping is prohibited.
- Ensure adequate turn-around places on the Steens Mountain Loop Road for larger vehicles/trailers, etc. (There are currently 34-36 turn around places.)
- In Alternative B in the routes and road closures section, the proposal for Three Springs road was removed (the Three Springs proposal is in Alternative E already).
- Regarding the suggestion to fence the meadow around/near Fish Lake – not possible since the land is administered by the State of Oregon.
- Add a parking area at the Cold Springs trailhead to accommodate equestrian users.
- Change Moon Hill Road camp site proposal to “North Steens Equestrian Campground.”
- Eliminate the proposal for camping spots at Three Mile Canyon (parking only).
- Eliminate the Desert Meadows Loop trail proposal.
- The Penland and Pike Creek Campground proposals were re-written to allow for slower, need-based development instead of immediate full-development.
- Added language in Alternative C regarding improved cooperation with landowners on the north side of Steens Mountain for winter recreation.
- The BLM is working on a panel of information for the Malheur National Wildlife Refuge kiosk in Frenchglen – this will help educate visitors to Steens Mountain.
- The engineering staff at the BLM is working on signage ideas for the Rooster Comb area/approaches to the Rooster Comb.
- Will add individual diagrams/layout drawings of each campground to campground information boards.
- Removed proposal for developed camping at Frog Springs.

There was some discussion about the private proposal for development at Alvord Hot Springs. The private party will be at the Council meeting the following day, so the discussion will continue and be more detailed at that time. The Council emphasized their desire to discuss/deal with access on Indian Creek Road, which is directly tied into the Alvord Hot Springs issue. Discussion on the updates to/changes to/current status of the

CRP continued:

- Language about maintaining the Nye and Cold Springs Cabins (3 cabins total – 2 at Nye and 1 at Cold Springs) to a rustic, safe, structurally sound and usable state will be included in the CRP. Tabor Cabin will not be included.
- Cold and Grove Springs development is included in Alternative D. Stacy Davies inquired about the BLM's earlier decision (years ago) to re-develop the springs. Rhonda Karges stated an EA had been started toward this effort, but not completed. The SMAC agreed there was still a need for these projects.
- Additional information on wildlife conflicts for winter recreation on the south side of Steens Mountain – The area off the South Loop Road is deer winter range, elk winter range, and Sage-Grouse winter/breeding habitat. Winter use restrictions were put in place on the north Steens Loop Road in 1993 to keep people from disturbing wintering mule deer during the time of year when mule deer are most stressed and basically losing weight even though they are eating (low quality forage). The number of permits allowed keeps disturbance to a minimum during this time, but still allows for winter recreation above the snow line. The south Steens Loop Road takes longer in most years to get above the snow line to where winter recreation activities would be feasible and has a lot more area where people could get off-road and disturb wintering wildlife. If the same permit restrictions were in place on the south Steens Loop Road as far as the number of permits and no vehicles off the main road and recreation only above the snow line, then winter recreation in that area would probably be acceptable. Monitoring would be necessary to determine where users are going and if there are any impacts to wildlife.

Hoyt Wilson reminded the Council the SMAC made a recommendation several years ago on how they would like to see road closures evaluated and determined. Eric Haakenson stated there are two areas the BLM doesn't have much control over: access on Indian Creek Road and access off the East Canal Road from the Malheur National Wildlife Refuge. Stacy Davies stated it is not the right approach to close access to public lands because someone else is closing their roads or making BLM access difficult – the BLM needs to strive for what is best for the public. Fred Otley stated he would like to see the BLM address specifically in language, when decisions restrict access to large areas, the access-challenged public – those who may not be able to get out of the car a walk into an area, or the non-backpacking community. If the issue with Indian Creek Road cannot be worked out with the landowner, the SMAC discussed possibly rerouting the road to cross public land only – Wilderness and Wilderness Study Area designations may create some challenges. Again, the conversation was tabled until the private landowner is in attendance at the SMAC meeting the following day.

The CRP discussion moved to trails. There are no *new* trail developments or proposals in the CRP since the last SMAC meeting. Stacy Davies and Eric Haakenson met and discussed the Three Mile Canyon area proposal(s) between meetings.

- At the Three Mile trailhead, have a sign that shows a map with “these are existing trails; here is a route you can take to see some interesting sites” (using old CCC roads, existing roads, closed roads, etc.).
- Or, also at the trailhead, the sign could show some GPS points highlighting “interesting sites” (use GPS to find your route).
- Davies stated the CRP has a pull-off area at Three Mile Canyon and some proposed primitive camping spots further up the canyon. The pull-off area would be considered the Three Mile trailhead, and Davies helped determine the best trails and roads to use in the area to access and enjoy great views, Wilderness, the South Steens Campground, etc. Kueny and Black Canyons also provide some good trails (wildlife and livestock trails or old roads) for public use.

Dan Haak asked if the entire trails subcommittee met between the last two meetings. David Bilyeu stated there were several conversations via email and phone, but no in-person meetings. Also, Pam Hardy was able to get on the ground and has submitted a new trail proposal via email.

- o Hardy talked with hunters about the Kiger Gorge trail from the rim to the bottom of the gorge.
- o Hardy talked with John and Lori O'Connor (Back Country Horsemen of Oregon, Steens Chapter) about the idea of a trail connector from Mud/Ankle Creek over the shoulder of Little Indian Gorge;

this area is actually already being used recreationally and would be fairly easy construction to make it a “developed” trail. This proposal is already included in the CRP – Hardy’s discussion with the O’Connors solidifies support for it.

- The bottom of the Nye Trail has been nicely improved by the Back Country Horsemen; however, the upper sections of the trail need more maintenance. Also regarding the Nye Trail, Hardy suggested the Council consider recommending a *new* official trail proposal (map attached).
- The Council paused for a break at this time to discuss the proposal and look at a map to determine the exact route.

Karges asked how the SMAC would like to depict these types of trails on a map – actually showing them with a specific symbol, identify points of interest without showing a line, using rock cairns, etc. Rich Angstrom stated there is a large and diverse trail-using community – whatever is decided should accommodate the majority of users (making sure people don’t get lost, providing a rewarding experience, etc.). Identify what skill set you want to manage for. Haakenson stated a SMAC recommendation on that issue would be useful.

Bill Renwick stated locator beacons for the public may be useful in circumstances where trails are not clearly identified on a map. David Bilyeu supports the minimalist approach with less signage and classification of use. Bilyeu stated somewhere there needs to be information (kiosks, websites, etc.) where trail-users are recommended to go to learn as much as possible; directing people to other information sources would allow minimal signage. Bilyeu asked if the BLM designates a trail on a map, is there a maintenance requirement? Haakenson stated ‘not necessarily,’ and that some other public land administrators are using the classification of “maintained trail” and “non-maintained trail,” – that could be something we could use in the CRP if the SMAC supports it. Fred Otley suggested “major trails” need to be on “a” map; identifying these types of routes may help avoid conflicts with private landowners, increase public safety, and take pressure off of other areas where people tend to congregate (increase distribution of recreational uses).

Bill Renwick stated his main concern with designating trails and showing them on a map is that Special Recreation Permit (SRP) holders are only allowed to use “designated trails” while the general public could use whatever they wanted. This creates a conflict. Michelle Brown clarified the issue by stating an SRP holder does not have to stay on a designated trail; they have to stay on what is agreed up between the BLM and the SRP holder in their permit – this could include designated trails, but does not have to be. Renwick also wanted to reiterate his suggestion for a more notable trail for the Levi Brinkley Memorial. He stated the ‘Riddle Ranch to Page Springs’ proposal would be a great trail for the Levi Brinkley Memorial.

Stacy Davies would like to continue with the trails discussion and make a recommendation on the proposed trails – we have two categories of trails (maintained vs. primitive). Some of these trails should be put on a map. Davies for sure wants to show a trail that leads up Three Mile Canyon that leads to primitive camping areas (noted on map), and a trail that leads up the rim to direct people away from private land. Eric Haakenson added the first ½ - 1 ½ miles of the Three Mile trail would need to be constructed. Michelle Brown pointed out that when the BLM constructs trails, they are built in the safest locations with regard to access to water, proximity to historic sites, etc. Davies stated, for Keuny Canyon, show the proposed Keuny Canyon camping area and the trails from there that link to the Steens Loop Road and Black Canyon. For the horseback trails, Davies supports adding in some trail connections to get users to the high country.

Dan Haak inquired about “non-maintained, self-discovery routes” and give people an idea of where those routes are by putting a line or a GPS dot on a map– these trails should still be shown on a map somehow, so people know those particular areas are being highlighted for discovery. They must but under a different symbol so users know what to expect on the ground. Davies stated the only exception to this would be putting symbols along the “self-discovery” trails to move people in the right direction – for example, put a symbol at the top of the rim above Three Mile showing “Catlow Valley Overlook” to get people up there.

Haakenson asked for clarification on “self-discovery” – do we only provide GPS points, do we provide nothing, do we put a line on a map, do we put lines and points on map, do we provide a short description of the

“potential” route, etc.? Fred Otley supports showing a line on a map with points of interest (there may be one point, there may be several, there may be none – all depending on where the self-discovery corridor is, what resources are in the area, public safety, etc.). Also, make sure to ask private landowners in the vicinity if it will help them or hurt them to have these self-discovery routes highlighted on a map. Tom Davis suggested a difficulty rating scale for trails to help users identify best appropriate places to explore. Because the Council does not have a quorum at this meeting, they agreed on a “majority opinion” to make suggestions to the BLM.

- The SMAC supports Pam Hardy’s trail proposal but did not agree on “non-maintained” vs. “maintained.” Hardy would like to see this trail maintained about as much as the current Nye Trail. After some discussion, 7 members (Dan Haak, Stacy Davies, Bill Renwick, David Bilyeu, Hoyt Wilson, Fred Otley, Tom Davis) for non-maintained and 2 members (Rich Angstrom, Pam Hardy) voted for maintained.
- The SMAC supports the Three Mile Canyon proposal as developed by Stacy Davies and Eric Haakenson, which includes a constructed trail from the Three Mile Canyon parking area to the primitive camping area and self-discovery beyond there.
- The SMAC supports the “Skid Trail” proposal from Three Mile Canyon parking area up the mountain to the rim as non-maintained/self-discovery. Davies added the Skid Trail could/should be tied into the Mud/Ankle Creek Basin to give people a “corridor” through that whole area. The Skid Trail will have a line with points of interest identified on a map, but will be considered non-maintained/self-discovery. Davies stated the BLM staff needs to ground-truth the line on the map and put it in the best place.
- The SMAC supports the Kueny Canyon trail proposal – show the proposed Keuny Canyon camping area and the trails from there that link to the Steens Loop Road and Black Canyon.
- The SMAC supports the Penland trailhead proposal and would also like there to be a trail that connects the Penland trailhead to the Berrington trail that avoids as much conflict as possible. This may need to be a constructed and maintained trail in that landscape. Haakenson stated it could be completed in stages – rock cairns and GPS points and then possibly a maintained trail if needed. Fred Otley supported using the language “adaptive management as necessary to avoid conflicts.”
- The SMAC supports a designated trail from Wildhorse Canyon (lake), around private land and to the Penland trailhead.
- The SMAC supports access to the Carlson Creek basin – either with a parking area at the bottom, or with a trail connector from the Penland trailhead.
- The SMAC supports the Kiger Gorge trail shown on a map but left as unmaintained/self-discovery.

Discussion regarding the trail down Wildhorse canyon: Haakenson stated it would not be a designated trail. The private landowner has been allowing people to use the trail with permission. Davies asked if you could connect the Penland trailhead with Wildhorse Canyon. Haakenson stated that would be the intention. We will direct people from Penland to Berrington trail. This area would be a good primitive camping spot for hunters. From there, hikers could start looking toward Carlson Creek for additional exploration. Bill Renwick inquired about Wildhorse Canyon and that it was so overgrown that access on traditional trails is impossible. This issue is not analyzed in the CRP since the trail up the canyon has never been “designated.” Davies stated the real question is - is there going to become a user trail down Wildhorse Canyon that tries to connect to Penland – if we don’t foresee this in the future, then we can leave it off the map and out of the analysis.

If you designate a new trail that requires construction, are you obligated to have it built within a certain time period? Rhonda Karges stated construction, development and/or maintenance is all based on funding.

The SMAC did not agree on ‘naming’ vs. ‘not naming’ trail designations. Michelle Brown suggested a subcommittee to tackle this subject, and if “naming” was supported, an opportunity to involve the public could arise. Dan Haak will summarize the “majority opinion” of the SMAC regarding trails and submit it to the BLM.

The CRP discussion moved to motorized winter recreation. Stacy Davies stated the reason this subject was on the agenda is because one Council member could not support the proposed motorized use in the South Steens area until there was more information about potential conflicts with wildlife. Davies also wanted to discuss the proposed non-hiking area. One half of the mountain is off limits to motorized/mechanized uses and we are

constantly taking more and more areas away from those users. In all reality, there are impacts to wildlife from hikers and equine users. There is substantial danger to people on foot and horseback in the high-density wild horse areas. Davies would really like to see the South Steens area (Lauserica road connection Roaring Springs private land) open for winter recreation. Davies doesn't see any reason to allow non-motorized/mechanized users there. Those users have a great deal of access on the north side of Steens Mountain, where non-motorized users are prohibited. Davies would support letting any user into the area, but putting motorized users first in times of conflict.

Bill Renwick does not support partitioning uses – he is a very strong advocate for shared, multi-uses. Rich Angstrom is amazed at how people discuss the issue of competing uses for winter recreation – most cross-country skiers will go to places where snowmobiles or other skiers have already cut a trail. Angstrom understands Pam Hardy's concerns, but he supports the majority of the council's preference to allow mechanized/motorized use in the South Steens area.

**MOTION, Stacy Davies: Make the South Steens area open to over-the-snow vehicles to access the South Steens Campground (not beyond) and use the Lauserica Road to access Roaring Springs Ranch for a private land play area on a permitted basis. Bill Renwick seconded the motion.**

Discussion: Eric Haakenson stated he would like to make sure motorized users do not go beyond South Steens Campground due to safety concerns with the Rooster Comb area. Fred Otley added the Oregon Department of Fish and Wildlife will never support motorized users in big game winter range areas. Rich Angstrom stressed the importance of educating users about the dangers of harassing and stressing wildlife and that access in the South Steens area for winter recreation is a privilege. Bill Renwick asked about the consistency of snow in the area; it was determined the amount and availability of snow would regulate use quite effectively. David Bilyeu asked if the proposal is to limit to the same number of permits as are allowed on the north Steens area? Haakenson stated there is language in the CRP to reflect the number of permits allowed at a time and that number would be the same for north Steens and south Steens users. Fred Otley suggested that the number of permits allowed at any given time are adaptively managed and determined in consultation with the private landowner. Dan Haak stated the permit process helps the agency monitor who is using the area and how they are using it.

Hoyt Wilson stated he is highly in favor of Davies' motion. Tom Davis also agreed, however, wanted to support some sort of permit system that assured no adverse effects on wildlife. David Bilyeu inquired about the possibility of the next private landowner of Roaring Springs Ranch possibly not wanting to allow public users on the Ranch. That opportunity will always have to be negotiated with the landowner; however, the use route on public land needs to be included and analyzed in the CRP.

**AMENDMENT TO THE MOTION, Tom Davis: Make the South Steens area open to over-the-snow vehicles to access the South Steens Campground (not beyond) and use the Lauserica Road to access Roaring Springs Ranch for a private land play area on a permitted basis, with adjustments made to minimize or eliminate wildlife conflicts. Bill Renwick seconded the amended motion. No opposition - motion passed.**

Rhonda Karges added there is an hour on the following day's agenda to discuss the CRP and would like to "conclude" the SMAC's input on the CRP after that time, or at least until the draft document is released to the public for comment. Stacy Davies suggested using part of the hour to brainstorm all the crazy recreational activities that might show up at some point and leave it with BLM to determine if/when/how they would like to analyze them.

#### **FRIDAY, NOVEMBER 29, 2012**

Facilitator Jerry Hubbard opened the meeting with a review of the day's agenda. Jerry Magee, Wilderness Specialist with the OR/WA BLM State Office introduced himself before moving forward with review of Action Items from the previous day.

- Brenda Smith from the Eastern Oregon Agricultural Resource Center stated she has a reference list for

biological thinning information and could provide it to the BLM and the Council. Rhonda Karges will send biological thinning information to Dan Morse with ONDA once the District receives it from the Agriculture Research Center.

- The SMAC will write a letter of appreciation to the Eastern Oregon Agriculture Research Center regarding their presentation to the SMAC on Medusahed.
- Fred Otley stated the SMAC would be able to put together a letter emphasizing the value of this type of research (Medusahead) and supporting continued efforts – Fred will write the first draft of the letter and present it to the SMAC at the next meeting for their review.
- The SMAC will write a letter to the Malheur National Wildlife Refuge supporting access off the East Canal Road – Fred Otley emphasized keeping the letter positive and cooperative. Rhonda Karges stated it may not be in the SMAC’s charge to provide recommendations to the Refuge regarding their management actions. Stacy Davies agreed and recalled it was the intention of the SMAC to write a letter to the BLM recommending their active pursuit of access off the East Canal Road to BLM-administered lands (Bridge Creek area).
  - o Rich Angstrom inquired about the BLM’s current status on pursuing access off East Canal Road. Rhonda Karges stated there were BLM staff participating in the collaborative process with the Refuge regarding their Cooperative Conservation Plan, which is the document that addresses access on the East Canal Road (among other things).
  - o Instead of a letter to the BLM, the SMAC moved forward with a **MOTION from Rich Angstrom: The SMAC promotes and supports the BLM’s active pursuit toward and assurance of access off East Canal Road into the Bridge Creek and Mud Creek areas, working with the U.S. Fish and Wildlife Service to make it happen. Fred Otley seconded the motion. No opposition – motion passed.**
- Dan Haak will summarize the “majority opinion” of the SMAC regarding trails and submit it to the BLM.
- The Council agreed to support the concept of a trust purchasing the Juniper Ranch with future development in cooperation with the BLM (grassbank issue). Bill Renwick will continue to research the possibilities and report back to the SMAC.
- Tara Martinak will share contact information for Jerry Magee (BLM) for questions regarding the updated Wilderness and Wilderness Study Area manuals.

#### APPROVAL OF PREVIOUS MEETING MINUTES –

**MOTION, Stacy Davies: Move to approve the draft September 2012 meeting minutes as presented. Bill Renwick seconded the minutes. Discussion: Minor typographical error on page 8, and correct the SMAC motion on the last page regarding use of SMAC developed road-closure process to close road. (The text “agree that the SMAC is not in agreement on road closures and winter “ should read “SMAC is not in agreement on winter recreation and would like to refer road closure decisions back to their earlier recommendation regarding this issue.”) The SMAC expressed appreciation for the quality of the meeting minutes. MOTION AMENDED by Davies as captured above. Amended motion seconded by Renwick. No opposition – motion passed.**

#### STEENS MOUNTAIN COMPREHENSIVE RECREATION PLAN DISCUSSION RECAP –

Eric Haakenson summarized the previous days’ conversation regarding the CRP. All unmaintained trails will have some sort of identifier, but the trails will be marked on a map to show areas for “self-discovery.” Other information regarding this discussion can be found above.

Dan Haak wondered which terminology – “unmaintained” or “self-discovery” – would be used to describe undeveloped trails. Haakenson stated a decision had not been made. Rich Angstrom asked if a “trail” was designated as unmaintained, if there is something that happens that completely blocks access on the “trail,” will BLM be able to do any “maintenance” to make it accessible again. Karges stated it depends on the circumstance which caused the trail to become inaccessible (a natural-occurring issue that is causing a safety and health issue and/or some ecological damage may be easy to deal with; everything else – not so much). Angstrom encouraged the BLM to write the CRP trail section with enough flexibility and discretion to accommodate maintenance anywhere it should be needed. Tom Davis agreed with this point and then inquired about what kind of work would or could be done on ‘unmaintained’ trails. Davis supported use of volunteer groups or others interested in

trail maintenance on the Steens.

Haakenson stated that “unmaintained” trails are just that –unmaintained, and if an obstacle happens across the “trail” for one reason or another, than folks will need to find a different way. The unmaintained trails are supposed to be self-discovery corridors – not developed pathways. Fred Otley supports use of language in the CRP to allow for maintenance if/when circumstances change or arise on unmaintained trails – any natural disturbance that blocks the trail should be addressed. The Council does not want the BLM to be locked into anything that completely precludes any maintenance; there must be a response mechanism in the CRP to address this issue and provide for flexibility.

Karges stated the flexibility is nice, however, she is confused - the SMAC is supportive of unmaintained routes for self-discovery, but then the SMAC also supports maintenance on those routes “if necessary.” What does that mean? You either maintain a trail or you don’t. Angstrom stated if you are going to designate a “trail” (maintained or unmaintained), you have to provide for that use... absolutely no maintenance on an unmaintained trail will usually result in that “trail” becoming unusable. If something happens on the ground that affects the use of the trail, it should be dealt with to accommodate continued use – otherwise, it will become unusable. An unmaintained designation could be “unmaintained plus” to satisfy this description. Hoyt Wilson suggested using maintenance categories similar to how road maintenance levels are defined and assigned. David Bilyeu thought the best solution would be to have all the trails be maintained and removed the unmaintained designation altogether. This will allow the BLM to maintain the trails as necessary, as funding is available, as use develops or subsides, etc. Bill Renwick is nervous about locking anything into print and supports any kind of language that allows for adaptation. Fred Otley suggested the criteria for “unmaintained” trails would include a descriptor for adaptive management – unmaintained trails may become maintained to a primitive level based on monitored use levels or some major change in the usability of the trail. Tom Davis stated he thinks the SMAC is in agreement on how they would like to handle trail maintenance, and that is through maintenance categories as Hoyt Wilson suggested. David Bilyeu suggested “not maintained” may be another good choice for language in the CRP. The SMAC agreed to conclude the CRP discussion without coming to an official conclusion on trail maintenance.

**MOTION, Stacy Davies: The SMAC has given the BLM a lot of advice on the CRP and encourages the BLM to move as quickly as possible on completing the analysis and releasing the document to the public. The SMAC would then like to see the document and the public comments so the Council can decide on an alternative the group can support. Tom Davis seconded the motion. Davies withdrew the motion shortly thereafter due to confusion among the members regarding a general recommendation about a preferred CRP alternative from a previous meeting.**

### **POTENTIAL PRIVATE LAND ACQUISITION (JUNIPER RANCH)**

Bill Renwick stated when the Steens Act was passed, there was an “allocation” of \$25,000, 000 to purchase lands within and adjacent to the Cooperative Management and Protection Area. The sole source of that money is the Lands and Water Conservation Fund (LWCF). Pam Hardy, David Bilyeu and Renwick have been working on a land trust project particularly in the Steens area. Renwick thought the Juniper Ranch would be a good purchase for the trust. The Juniper Ranch has also been suggested as potential location for a grassbank. Renwick has worked with the BLM to put some maps together displaying the lands for sale. The maps were displayed at the meeting and Renwick discussed the boundaries, resources, allotment boundaries, etc. within and near the property for sale. The asking price on the property is very high and there is a lot of interest from folks who have a lot of money but perhaps less-than-desirable agriculture sense. Renwick feels it would be an opportunity to purchase a significant portion of land for long-term landscape conservation.

Dan Haak asked for a sense of what the outcome of the effort to purchase the land really is – is it really possible? Renwick is nervous about the purchase price and that could be the main deterrent in the project, however, he has talked to a couple of groups that may be able to help with funding while waiting for an allocation from Congress through the LWCF. Tom Davis stated he could support what Renwick is trying to do and wondered what he is looking for from the SMAC. Renwick would like a consensus recommendation to the

Secretary of the Interior to help get LWCF appropriated in order to purchase the Juniper Ranch. The Ranch would serve as a grassbank, a conservation area and a commercially operating Ranch. This is a value to the CMPA because it is directly adjacent to it. Hoyt Wilson asked about the BLM's position on unallocated or long-term unused AUM's associated with the Juniper Ranch. Eric Haakenson stated 3 years is the maximum for non-use for allocated AUM's.

Stacy Davies said he is supportive in concept; however, there are several details and challenges that need to be worked through before the SMAC can really show support. We need to have a better idea of what the management objectives are, how they will happen, who will manage it, what would it really take for the BLM to have an active grassbank, LWCF allocation guidelines/sideboards, etc. Paul Davis, private citizen, spoke with permission from the Council and showed concern over the purchase price of the property and suggested looking for other opportunities for a grassbank. Rich Angstrom stated giving the history of the inholdings in the Steens Mountain area, there may be some opposition to using public money to purchase something that will become – even in part – a working ranch. Land value is hard to assess all the time – as a ranch or a conservation or wilderness area, the value may be different depending on the particular buyers and sellers. Moving forward in the process of purchasing the Juniper Ranch will certainly draw more attention to it and it may play out in a way that is really hard to plan for.

The Council agreed to support the concept with future development in cooperation with the BLM (grassbank issue). Bill Renwick will continue to research the possibilities and report back to the SMAC. Rhonda Karges stated she is struggling with the concept for a number of reasons. Namely, the Steens Act specifically charges the SMAC with making recommendations within the boundaries of the CMPA. Additionally, the Steens Act states “the Secretary may acquire other non-Federal lands and interest in lands located *within* the boundaries of the CMPA or the Wilderness area.” Also, Karges stated when you use LWCF to purchase a property, it remains in the control of the Federal agency. Renwick disagreed and stated the purchase would be channeled through the trust. David Bilyeu encouraged Renwick during his discovery on the concept to see if there are other properties within the CMPA boundary that could {also} be purchased with the LWCF allocation.

### **REVIEW COUNCIL CHARTER**

The Council chose to table this agenda item until later in the meeting if time allowed.

### **BLM'S NEW WILDERNESS STUDY AREA & WILDERNESS MANAGEMENT MANUALS**

Jerry Magee, Wilderness Specialist at the OR/WA BLM State Office, shared a handout outlining the apparent differences between the “interim” and “new” manuals. Magee opened the discussion by stating the new manuals were released between March and September of 2012. Magee was introduced to the new manuals at a conference/workshop for the National Landscape Conservation System in July 2012. At the conference, the participants dug into the manuals and learned/discussed the changes between the interim and updated versions. The conversation started with a focus on the difference between Wilderness (having wilderness character) and Wilderness Study Areas (having wilderness characteristics).

Section 2:C of the Wilderness Act defines wilderness (wilderness character) and uses words like ‘untrammelled,’ ‘undeveloped,’ ‘natural,’ and ‘outstanding opportunities for solitude.’ The BLM was challenged to use these same criteria for managing WSA's (lands with wilderness characteristics). ‘Untrammelled’ was originally thought to mean ‘untrampled,’ however, it's real meaning is ‘unmanipulated’ When a decision is made to manipulate the environment in any way (wildlife guzzler, spring development, road construction, etc.), that is considered a trammel. ‘Undeveloped’ in Wilderness is more closely aligned with ‘naturalness’ in WSAs. In WSAs, ‘naturalness’ is about appearance, not ecological factors – if it looks natural, it's called natural; however, in Wilderness, ‘naturalness’ is more about ecology and natural processes.

Congress's mandate for Wilderness character is to *preserve* those characteristics; for WSAs, the mandate is to not *impair* those characteristics. The non-impairment standard for WSAs in the interim management policy basically says that all actions had to be temporary and that there is no expectation that the temporary allowance would continue on a permanent basis. The non-impairment standard also says ‘no new surface disturbance.’ The

rest of the interim management policy is basically exceptions to these guidelines.

Tom Davis asked if science (natural ecosystems) is a major aspect of wilderness – natural should mean scientifically natural. Magee agreed, stating that natural processes and ecological integrity are more closely examined in Wilderness management (not as much in WSA management, where natural appearance to the casual observer evaluated).

Magee reviewed some of the changes between the interim and new management policies for Wilderness Study Areas.

- No longer using the word “interim”
- WSA monitoring is clarified to require a frequency for monitoring
- Added new discretionary uses – added some general examples and clarified for special recreation permits (i.e. no permits allowed for incompatible uses)
- Added “maintain improved conditions” – originally the manuals stated we would manage areas to the level they were at the time of designation; the new benchmark for non-impairment is “1976 or current condition... whichever is... better” (the measure of improvement is wilderness condition).
- “Temporary” in a WSA is now a defined period of time for a temporary need and could be removed if the area is designated as Wilderness. (Chronic, repeated short-term use and actions that create incompatible demand do not meet the definition of temporary.)
- Fuel treatments in advance of or as replacement for prescribed fire – uses court ruling from North Steens Ecosystem Restoration Project, allowing mechanical treatments if in preparation for prescribed fire. (Also goes beyond the court ruling regarding mechanical treatments being used as a replacement for prescribed fire under limited circumstances.)
- New livestock developments – protect or enhance (the interim plan only said “enhance”). BLM will determine if benefits for protection or enhancement outweigh the loss of naturalness.
- Access to inholdings – the new manual removes the “adequate access” provision, which only applied to lands in Alaska subject to Alaska’s National Interest in Lands Conservation Act (not the Federal Land Policy and Management Act, which is the actual legal basis for this type of provision). New access is not guaranteed – must meet the non-impairment standard.
- Non-impairment of experiential as well as biophysical conditions – this change is based on three court rulings involving U.S. Forest Service WSAs that basically direct the Forest Service to maintain the wilderness character of the WSA to the level it was at the time the area was designated as a WSA (including levels of use that could impact solitude). The problem with the new manual provision for BLM WSAs is that the BLM did not inventory solitude based on existing motorized uses in each unit. BLM’s inventory evaluated each area’s “inherent” opportunities that would exist if the area were designated as wilderness and such uses eliminated.
- Vegetation management – restoration includes broad-scale landscape function; the updated manual now addresses invasive natives, which was a major omission in the interim management plan.
- Wild horse and burro management – new, permanent developments in historic habitat are allowed if they meet an exception to the non-impairment standard
- Review requirements: Categorical exclusions to be rarely used (added a justification requirement, meeting the non-impairment standard, to existing categorical exclusion requirements)
- Provides detailed steps for evaluating proposed actions in the National Environmental Policy Act process.

Bill Renwick asked, in regards to wildfire suppression, are there restrictions that will keep managers from being able to enter a WSA with machinery to fight a fire. Magee stated most of the fire management guidelines were left unchanged between the interim and updated WSA manuals – above all, it is still recognized that necessary measures can be taken if life or property is threatened... the light hand on the land approach, is, of course, supposed to be followed. Tom Davis asked about the reduced funds for wilderness study area monitoring and infrared mapping. Magee stated the BLM is allowed to use whatever technology is available to make the most efficient use of time and resources to do the most monitoring possible.

Stacy Davies asked if there is a public process involved in creating policy manuals and if the manuals can be

litigated. Magee stated most all policy manuals are completed internally, at the discretion of the BLM. The litigation process would come through a manager's decision/action based on the policy (the decision/action is litigated, not the policy directly). A ruling on the decision/action could ultimately affect the policy and cause a change. Davies asked about wild horse and burro management (page 136, section 10 – water developments, fences, traps – of the new manual). Davies felt there is more latitude in the updated manual than what was practiced under the interim manual. Hoyt Wilson pointed out a new section (1-13 G) which reads: "Other legal requirements – activities required to meet obligations imposed by other laws are allowed even though they may violate the non-impairment standard." However, according to the water developments section, in order to develop water, you have to meet an exception to the non-impairment standard – the new language in 1-13 G is that exception. Wilson added that in the South Steens Allotment Management Plan, we are trying to justify the need for water on the basis of protecting or enhancing wilderness characteristics – that is a really tough sell. We should use the new language ("other legal requirements..." etc.) as the justification. Davies stated that as he interprets the new manual, water developments for wild horses could be placed in a Herd Management Area within a WSA. Magee has not looked deeply into the changes in the manuals for wild horse and burro management, but the updated manual *is* the direction the BLM will follow.

Magee reviewed some of the changes between the interim and new management policies for Wilderness:

- Preserve wilderness character – this section now describes the "four mandatory qualities and a fifth, optional, quality" as distinct from WSA; monitoring wilderness character was given a mandatory BLM protocol and frequency; and the new plan notes that every wilderness is unique (graphic representation of unique baseline – not every wilderness starts in the same condition).
- Exceptions to wilderness prohibitions – minimum requirements: use of the Minimum Requirements Decision Guide is required for minimum requirements analyses and other uses (this was formerly optional); approving an exception to wilderness prohibitions falls to the State Director, with delegation down to the District Manager or Field Manager with training; also, the State Lead for Wilderness is involved in all Minimum Requirements Analyses.
- Commercial services – includes factors for determining "extent necessary" (for activities that are proper for realizing the recreational or other wilderness values of the area).
- Cultural resources – provides general principles and specific guidance for managing cultural resources as components of an area's wilderness character; responds to a recent U.S. Forest Service case where the court limited "historical" to "natural history" as opposed to "cultural history."
- Fuel treatment addressed with strict limitation (similar to change in WSA manual as describe above).
- Use of existing access across wilderness to edgeholdings prohibited – this manual guidance contradicts legal precedent in *Nelson v. U.S.*; as such, the BLM will use and cite to *Nelson vs. U.S.* in cases where no legal access exists on the fourth side.
- Vegetation management – restoration includes broad-scale landscape function; the manual now recognizes and address native invasives and provides justification parameters.
- Wildlife management – provides clarification of State/Federal roles and emphasizes that cooperation is essential; agencies with "a primary role" do not have "the sole primary role." All actions must meet Federal requirements.

### **PUBLIC COMMENT**

Paul Davis, private citizen: Davis introduced himself as the owner of the Alvord Ranch and Alvord Hot Springs. There have been issues with the use of the Alvord Hot Springs. In dealing with the issues, we can: 1) ignore it until it becomes a bigger problem; 2) sell the property; 3) close the property, or 4) commercially develop the property. Davis' first thought is to continue letting the public use this property, but establish an agreement through the BLM in which the agency incurs the liability issues with public users on the private property. Unfortunately, the BLM cannot assume liability on private land. The BLM could agree to lease the property from Davis for 20 years, however, Davis felt 20 years was only enough time to really increase the use in the area and then hand it back over for the landowner to deal with. Davis pointed out several places where the Alvord Hot Springs are advertised, despite not having landowner permission.

Davis has chosen to commercially develop the Alvord Hot Springs since an agreement cannot be made with the BLM regarding the liability issues at the site. Davis has applied for and been granted a use permit from the Harney County Planning Department – a parking area at the Alvord Hot Springs has been developed, and a Caretaker spot with electricity and two public restrooms will be on site by March 1, 2013. The area will become a fee site where users must pay for amenities. Davis welcomed other suggestions or ideas on how to manage the issues and use at the Alvord Hot Springs. Davis felt any developed camping on BLM-administered land in the vicinity would probably not alleviate the use issues at the Alvord Hot Springs and would take away from business at the private fee-sites at the Springs.

Rich Angstrom noted that Davis has already made an investment into a serious commercial endeavor at the Alvord Hot Springs. Angstrom also inquired about access on the Weston Mine road, where access to public land is across private land; the private land is owned by the Davis family and has recently been blocked to public access. Bill Renwick spoke about the liability issue – the regulations on health and safety at a public facility are fairly stringent, but those regulations are interpreted differently between formal and informal uses. Davis stated he spoke with Rhonda Karges about doing something at the Hot Springs regarding the sanitation issues associated with visitors using bushes and the surrounding area as a “restroom” and that Karges stated it may take a couple of years before a permanent remedy could be in place. Davis stated he could not wait that long. Tom Davis agreed there are some big liability issues associated with use of the Hot Springs and encouraged Paul Davis to investigate the various types of business designations available (LLC, Corporation, etc.) to see which would be best suited for this type of commercial venture. David Bilyeu thanked Davis for the generous public access they have allowed at the Hot Springs for several, several years. Bilyeu asked if Davis was looking into a developed campground and day-use fees. Davis stated that day-use fees are part of the overall plan for the Hot Springs.

Fred Otley asked if Davis prefers the commercial endeavor instead of an interim solution with the BLM, or if Davis feels forced into developing the Hot Springs. Davis feels he is at the point that something has to be done immediately at the Hot Springs regarding the restroom issue. Davis doesn't feel it is fair for him to carry the liability for users at the Hot Springs – the public should carry this burden themselves. Otley asked if BLM came in and built a restroom facility on a 5-year agreement with Davis, would that solve the liability issue. Davis stated we could revisit the possibility, but feels like it's already been discussed and that he can't wait the time it would take for the BLM to implement anything. Stacy Davies asked what the BLM could do. Davis stated he already put his rules on the table and that they weren't acceptable to the BLM – Davis does not want the liability of the public using the privately owned Hot Springs, but the BLM cannot assume the liability of public users on private land.

Davies stated that because the Hot Springs are on private land, outside of the Cooperative Management and Protection Area, and technically outside the scope of the SMAC, there are two issues the Council can potentially help with: 1) whether or not the BLM develops a public campground in the Hot Springs vicinity, and 2) access in the Weston Mine road area. Regarding the latter, the BLM could build a road around it the private property, work with Davis to get an easement, or close the Weston Mine road (above the private property).

Davis repeated he felt he has no other choice than to develop the Hot Springs into a commercial operation and that his mind is made up – the BLM cannot address the issues in the timeframe that Davis would like. Davis is not opposed to re-opening the conversation, but isn't sure about the path forward. Fred Otley encouraged Davis and the BLM to reassess the needs and possibilities at the Hot Springs. Rich Angstrom stated not all conflicts are ripe for resolution for one reason or another. Angstrom stated the BLM/public has needs, too, such as access, so it is very likely there is something to work with each other on. The liability issue is likely the most difficult to address- if you continue to allow public use on your private land that is a liability you are assuming as a landowner. It will be very difficult to find a way to pass the private land liability onto the public agency.

Tom Davis stated the Alvord Hot Springs is a tremendous asset. Tom Davis asked Rhonda Karges to speak for the BLM regarding their position on the issue. Karges stated that she and Paul Davis have met and discussed the Hot Springs:

- For a permanent restroom structure, Davis would like a 5-year cooperative agreement while Karges would like the agreement to extend for the life of the structure (to protect the Government's investment).
  - o Tom Davis asked if there was a way to combine public and private funds for the restroom so the Government's investment is less, shortening the length of the cooperative agreement.
- For a portable restroom, there would still need to be a cooperative agreement; however, before the agreement could be discussed, Davis stated he already made plans to move forward with commercial development.
- For other developments in the area (camping), Davis felt it would take too much time to get through the BLM analysis process and he needed to do something right away to address the needs at the Hot Springs.

Karges stated she is happy to continue working with Paul Davis on cooperative ways to manage use at the Hot Springs, but felt it was ultimately up to him if he wanted to pursue a partnership. Davis agreed the door on this conversation was not closed, but that he really needs to see things happen on the ground – he cannot wait. Fred Otley asked the BLM – when we have a private landowner that has something special and allows public use to occur, a value could be put on that...these opportunities are few and far between and the BLM should recognize the substantial loss that could occur when cooperation cannot be reached. Davis stated the BLM is putting a burden on him by encouraging and advertising the Alvord Hot Springs as a “go to” place.

David Bilyeu stated, from the Council point of view, there is a strong interest in the Weston Mine area – public access across private land. Bilyeu hopes there is some ‘outside of the box’ thinking on how to address this access issue. Bill Renwick stated the SMAC agrees with the need for visitor facilities on the east side of Steens Mountain. Stacy Davies said that good businessmen turn burdens into assets and he feels Paul is on the right track. Regarding the liability issue – on public land, if someone gets hurt or injured, is the BLM reliable? Rhonda Karges stated the public has a right to file a tort claim against the BLM. From there, it will be up to someone in that division (with Solicitor advice) to make a decision on the claim. It also depends on how much publicity is done in the area where an accident or injury occurs. Is there any way for the BLM to assume liability for public uses on private land? A lease? A reciprocal right of way (access on Weston Mine for lease on land at Alvord Hot Springs)? Karges stated these are all possibilities, however, the problem still comes down to time – it is a process to complete a lease or a right of way, and Paul Davis doesn't feel addressing the needs at the Hot Springs can wait. Bilyeu suggested a SMAC sub-group could help come up with creative solutions if the discussion continues. Paul Davis repeated the door is still open for conversation, but it won't be that way for very long since he is already moving forward with development at the Alvord Hot Springs. The SMAC encouraged the conversations to continue.

Hoyt Wilson suggested leaving the Pike Creek area “as is” (no development, as proposed in some of the alternatives in the CRP). Paul Davis said Pike Creek has also become an issue because the use there has really increased and people are parking and camping all over private land in that area. The more development there is on the east side of Steens Mountain, the more use there will be at the Alvord Hot Springs, which only increases the liability and sanitation issues already existing there. Paul considers improvements on the east side of Steens Mountain as a slap in the face. Rich Angstrom asked for an update on the issues at the February 2013 meeting.

#### **FUTURE MEETING AGENDA PLANNING**

- February 21-22, 2012
  - Grass banks (legal limitations, availability/opportunity, difficulties/rewards, etc.)
  - No Livestock Grazing Area fencing and maintenance
  - Review Council charter
  - Steens Act section review
  - Access to the Weston Mine area/Alvord Hot Springs
  - Land Acquisitions (Bill Renwick follow-up)
  - Cold Springs/Grove Springs rehab

Tara Martinak will share contact information for Jerry Magee (BLM) for questions regarding the updated Wilderness and Wilderness Study Area manuals.

The meeting adjourned around 1:00 p.m.

The Steens Mountain Advisory Council approved the minutes on: February 22, 2013

Signed by Dan Haak, SMAC Chair: *Daniel J. Haak*  
*Daniel Haak*