

## **Steens Mountain Advisory Council**

### **January 25-26, 2024, Meeting Summary Minutes – FINAL**

Steens Mountain Advisory Council (SMAC) met January 25 and 26, 2024, at the at the Hilton Garden Inn in Bend, Oregon, and via Zoom. In accordance with the provisions of Public Law 92-463, the meeting was open to the public. This document summarizes attendance, discussions that occurred, and decisions made. For the record, it is noted that to avoid any conflict of interest, Council members absent themselves from the meeting when the Council discusses matters in which a conflict of interest may occur.

#### SMAC members in attendance:

- Cliff Volpe, SMAC Dispersed Recreation Representative
- Jake Jakubik, SMAC No Financial Interest Representative
- Kali Wilson, SMAC Grazing Permittee Representative (Zoom)
- Mike Fox, SMAC Private Landowner Representative
- Butch Goette, SMAC Mechanized and Consumptive Recreation Representative
- Pete Runnels, SMAC Commercial Recreation Representative
- Karen Withrow, SMAC Statewide Environmental Representative
- Teresa Wicks, SMAC Local Environmental Representative
- Eric Hawley, SMAC Burns Paiute Tribe Representative (Zoom)
- Terry Turner, SMAC Fish and Recreation Fishing Representative
- Lee Foster, SMAC State Liaison (Zoom)

#### SMAC vacant positions:

- Wild Horse Management representative
- Grazing Permittee 2 representative

#### BLM employees in attendance:

- Tara Thissell, BLM Public Affairs Specialist and SMAC Coordinator
- Jeff Rose, BLM Burns District Manager
- Jamie McCormack, BLM District Rangeland Management Specialist
- Kyle Wanner, BLM Assistant Field Manager - Recreation/Wilderness
- Dean Reese, BLM Outdoor Recreation Planner - Wilderness
- Patrick O'Grady, BLM Archaeologist
- Calla Hagle, BLM Inflation Reduction Act Coordinator (Zoom)
- Matt Obradovich, BLM District Biologist (Zoom)

#### Public attendance:

- Steve and Marilyn, private citizens (Zoom)
- Tenaya Jewell, Advocates for Wild Equine (Zoom)

- Julie Weikel, private citizen (zoom)
- Lorna Torrey-Palermo, Advocates for Wild Equine (zoom)
- Mark Salvo, Oregon Natural Desert Association (Zoom / in person)
- Bill Marlett, Oregon Natural Desert Association (Zoom)
- Rand Campbell, Nature's Advocate, LLC (Zoom / in person)
- TJ Barbour, private citizen (Zoom)
- Adam Bronstein, Western Watersheds Project (Zoom, Thursday only)
- Stacy Davies, SMAC Grazing Permittee Representative nominee, private landowner, and part of the Steens Act development (Zoom, Friday only)
- Greg Walden, Congressman involved in the development of the Steens Act (Zoom, Friday only)
- Lindsay Slater, Legislative Aid to Walden during the development of the Steens Act (Zoom, Friday only)
- Fred Otley, previous SMAC member, private landowner, and part of the Steens Act development (Zoom, Friday Only)
- Ryan Houston, ONDA Director (Friday only)
- Mac Lacy, ONDA (Zoom, Friday only)

## **JANUARY 25, 2024**

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

Tara Thissell opened the meeting with a review of the agenda, handouts for those in attendance, facility logistics, etc. Applications were received for both the Wild Horse Management and Grazing Permittee representatives – those nominations were forward on for vetting in December.

### **Designated Federal Official's Update / Field Manager's Report (Jeff Rose, BLM Burns District Manager)**

There are several new staff, despite hiring being a challenge over the last couple of years. The district is doing better as of late – currently around 17-18% vacancy rate but have several positions currently in the hiring process.

BLM Burns District received \$3M in Inflation Reduction Act funds and will put them towards NLGA fence, Page Springs Weir removal, juniper treatments in the North Steens Project Area, Penland campground fence and access to wilderness, Steens Mountain CMPA trail development and restoration, and ethnographic or class 1 study with Burns Paiute Tribe in determining some of the cultural values with the native populations in this area. These funds are available across four fiscal years, which allows more time to plan and implement projects.

About the juniper treatments: 4,200 acres of cutting and 1,500 acres of spraying for noxious weeds - done primarily through contracts. Cliff asked why is it important to cut junipers? Jeff said juniper is a unique, native tree in our area, but it increased its range and density at the expense of other vegetation - especially sagebrush, which negatively impacts Sage grouse. When juniper moves in, it simplifies the ecological system with a very competitive root system and mines area water throughout. By removing the juniper, the ecosystem will shift away from a woodland environment. Jake asked what has caused the juniper expansion? Jeff answered three things: reduction of fire, subtle climate changes, and introduction of livestock, which impacts wildfire frequency. The BLM doesn't want to get rid of juniper altogether but would like to reduce its influence.

Cliff asked if the juniper is left when cut. Jeff said there are several things that can be done. Usually, trees are cut and piled, and then the piles are burned. Sometimes cut trees are left for firewood or biomass through stewardship contracting. Other times trees are cut, left and burned with a prescribed fire, though pile burning is more prevalent because broadcast burning takes the sagebrush as well.

Other things Burns District BLM is working on:

- Beginning the Smyth/Kiger Environmental Assessment – a new 10-year Herd Management Plan and gather for the Kiger and Riddle Herd Management Areas. There is, of course, a huge range and volume of interest in wild horse population and HMA management.

Mike said he appreciated the tour of the Wild Horse Corrals in October and thinks the staff and facility are incredibly well-managed. Jeff added that the district has hired two new Wild Horse Wranglers at the facility recently...long overdue! Jake added there is a lot of misinformation within the public about the Wild Horse Program in general.

- Travel Management planning for Steens CMPA – hoping the road/route inventory will be complete this summer. There will be a *lot* of public involvement in the Plan development....and a lot of compromise. It *is* progressing!
- Nature's Advocate, LLC, Inholder Access EA – Some more emergent work priorities have come up, however, there is LiDAR data for the area and the BLM plans to go over that at another SMAC meeting.

Jeff will be retiring at the end of June 2024!

### **Steens Loop Road Rock Fall Restoration (Kyle Wanner, BLM Assistant Field Manager for Recreation/Realty)**

At the beginning of the visitor season in 2023, a rock fall occurred on the Steens Mountain Loop Road near Big Indian Gorge Overlook.

- There has since been an engineering site visit and restoration recommendations.
- Rockfall is common in the area, but not a big portion of the slope all at once.
- Proposed remedy: setting an anchor at the top of the slope, using rockbars and other specialized tools to loosen the rest of the rocks to bring them down safely; then agency operations crew will remove the downed material from the roadway. There are some rocks that may need to be bolted if they can't be scaled and removed.
- NEPA documentation is in progress for this project. It is in/near the end of the Loop Road buffer and into designated Wilderness Area. The BLM is working with the engineers to do the work in the least invasive way possible and meet public safety needs, with minimum visual disturbance.
- The NEPA document is currently in the scoping phase. Next, the BLM will write an Environmental Assessment with a Minimum Requirement Analysis. The MRA helps us know if we need to do things beyond the minimum within Wilderness.
- Having the rockfall area closed on the Loop Road is a bit of a public inconvenience, though it doesn't impact the ability to see all the major "points of interest", trails, campgrounds, overlooks, etc.
- Intending to have this remedied in time for the 2024 visitor season. Regardless, it must be done well and done right.

### **Page Springs Weir (Kyle Wanner, BLM Assistant Field Manager for Recreation/Realty)**

Kyle went through a handout on the River Designs report on their review of the Page Springs Weir. This handout is available here:

[https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy\\_ol3yr9I92](https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy_ol3yr9I92)

The report gives an idea on various remedy alternatives, impacts, tools to accomplish the work, costs, etc.

Mike asked about the timeline to get to a final decision on the weir situation – the report looks very comprehensive! Contracting with River Designs has helped immensely to give the BLM suggestions since River Designs has done this kind of work before. The alternatives in their report may or may not be the exact alternatives the BLM will analyze in the Environmental Assessment. The BLM may use parts of some alternatives, other parts of others, new ideas, etc.

Jeff went through a brief history of the weir. It was installed in the 1930s to help gauge water coming on to the Malheur National Wildlife Refuge. Its location gives a defined area for calculating width and depth of water in a specific spot. There is minimal wear and tear to the weir itself. In the development of the Steens Act, there was concern about the weir preventing or inhibiting fish passage, so the Act directed the removal of the weir “if scientifically justified and funds are available for such purpose.” It is scientifically important to get the weir out, and there are many different things to analyze in how to accomplish that while maintaining all the resources and the biology that uses the river system. It may even get to the point that the “how” of removing the weir may be “too much” right now, but not “too much” in the future.

Mike said he would like to see things done expeditiously and as cheaply as possible, but he understands the dilemma. The weir needs to be removed – the “how” is going to be complicated! We also must make sure we identify and honor the cultural significance of the weir, which is identified as a historical structure.

Dean Reese, BLM Outdoor Recreation Planner, added that because the weir predates the Wild and Scenic Rivers Act (specifically pertaining to free-flowing rivers), it doesn't fall under that particular regulation.

Mike stated that the road originally built to put the weir in has essentially disappeared over the last 90+ years...and that there should be a way to use the “historic road” to access the weir for removal. Then nature can “disappear” the road scar again. The quicker this gets done, the fewer impacts to species and resources and the sooner the area can start to recover.

Karen asked about building a road and using equipment and added that there are volunteer groups that could very well help with rehabbing and mitigation. Teresa added that from a conservation and biological perspective, she would really like to see a slow, well-documented and thorough process with unintended consequences that could result from going fast. Having funding now is not a good reason to rush through this effort. Also remember that a road built today would not be reclaimed as quickly as a road built during the CCC era – the equipment is much different now. And we need to make sure we don't assume people won't use the road as a new way to access the river – they very well could, making nature's work to “disappear” the road much harder.

Jake asked about how the SMAC specifically affects decisions made by the BLM. Jeff said that it always matters what the SMAC says/recommends, etc. In the end, someone in the BLM is going to make a decision, and the more information the BLM

has, the better the decision will likely be. The power of the SMAC is that they can come together and give the BLM a recommendation on things SMAC constituents do or do not agree with. SMAC is a great and broad representation of public users!

Collaboratives are not about “telling you what I know so you agree with me” – it’s about hearing what everyone else has to say, integrating your own information, and coming together to create something that works for everyone. Butch said that this perspective is very refreshing to hear, and he supports it all the way – to know the SMAC is being heard is terrific!

Back to the weir, Mike added that because of the CCC issue, the weir is a historic structure, and he thinks things like that achieve a level of importance that is roughly analogous to the level of importance that we put on pre-settlement issues with Native Americans. Honoring these historic values is important. Dean talked about the gauging station at the weir and how it will be an important piece of the weir history to preserve while improving the ecology of the river with the weir removal.

Pat O’Grady, Burns District BLM Archaeologist, is researching the history of the weir and trying to track down any historical records that relate the construction of the weir. For historical accuracy, there should also be historic architecture and engineering reviews that would include hand drawings and large-scale photography to carefully document what is there before anything happens to it.

Matt Obradovich, Burns District BLM Biologist, said that the BLM did some scoping on this project years ago when conversations about weir removal first started, but there will be more public involvement as the process gets going again (including bringing information and project proposals to the SMAC).

Jeff mentioned the invasive carp species in the Malheur Basin and that the weir does potentially limit the carp from moving upstream. There is another feature downstream (a screen) that keeps fish from even reaching the weir, but if that screen were to fail, or if the river level was high enough, it could be a straight shot for carp to enter the upper Blitzen River system. At present, the Malheur Refuge is indifferent about the weir removal.

### **Grazing Management (Jamie McCormack, BLM Burns District Rangeland Management Specialist)**

At the SMAC’s October 2023 meeting, the group asked for a presentation about the basics of grazing management to help them understand how grazing decisions are made.

The 1934 Taylor Grazing Act is the foundational legislation for the creation of “The Grazing Service” to stop deterioration of rangelands, provide orderly use, and stabilize the livestock industry. Several other laws have built on this and come into place over time.

The Grazing Service and the General Land Office combined in 1946 to establish the BLM. The grazing regulations give the BLM some flexibility in some areas in decision making and are rigid in other areas.

The grazing regulations have two parallel tracks: administration of a grazing permit, and then an intersection with land management. Jamie cited a few other laws/Acts that impact the grazing regulations, as well as internal policies and guidance that give the agency direction on interpreting the grazing regulations. They she highlighted a few sections of the regulations:

- Section 4110: Qualifications and preference, which is the administrative side of the grazing regulations. Increasing or decreasing permitted use, increasing or decreasing acreage within grazing areas, etc.
- Section 4120: Grazing management section, which is pertinent for the SMAC to focus on. Allotment Management Planning, or the nuts and bolts of land management with prescribed levels of livestock grazing.
- Section 4150: Unauthorized grazing, trespass use – could be by people that hold grazing permits, or the general public. Pursuing trespass use is very stringent and time consuming!

The 1995 Grazing Regulations are the first time that Standards and Guidelines for Rangeland Health were introduced. This framework was designed to establish consistency in evaluating rangeland conditions and what desired conditions may be. Those desired conditions are outlined in Resource Management Plans for specific areas, for example, the Steens Mountain Cooperative Management and Protection Area RMP.

Jeff asked, ‘how does rangeland health relate to things we’re hearing about more recently regarding *other* land health?’ This question has to do with the proposed Public Lands Rule, which is sort of proposing a similar evaluation/review process for other public lands and projects outside of grazing. It wouldn’t be a new process for rangeland management decisions but would be for other analyses.

Cliff asked about the big picture for grazing on the Steens – are there very many permittees? Is it ranchers bringing their livestock to the mountain for a period? In general, there are several public land permittees in the Steens area that bring their livestock (all cattle except for one sheep operator in a Fenced Federal Range) to the mountain to graze for various seasons of use in various allotments and pastures. Many permittees start their grazing in the lower elevations around April and are off the landscape completely around October. And part of grazing management is rotating pasture use within allotments - grazing has different impacts on different vegetation depending on when it is used (spring vs. summer vs. fall). It's important to think deeply about the ecology of the area while also working with operators to meet their needs.

Cliff asked if a grazing permit was found to not be conducive to the environment, what does that look like? For places that aren't conducive to livestock grazing in general, or areas where the grazing was causing a problem, there is a suite of management actions to try – grazing in a different season, water or fences to distribute animals differently, etc. It is very site specific and generally acute. Agency staff are regularly monitoring actual use on the landscape and working closely with permittees to ensure rangeland health.

Jake asked how agency staff can regularly monitor so many allotments. Jamie outlined the Steens CMPA RMP and stated that the complexity of each allotment determines how often we go in to establish thorough trend monitoring. Some might be annually, others might be every 5 years, and so on. There is also have seasonal use monitoring. Permits are issued on a 10-year basis, and after 10 years they are up for evaluation and renewal.

Pete asked about monitoring and if conditions are favorable, could turnout dates change? Flexibility is typically woven into Allotment Management Plans that allow for this kind of adjustment. This is something the agency has been doing more often – start and end dates for grazing are generally set, but the number of Animal Unit Months (AUMs) may be flexible to accommodate what is available for nutrition. Autumn Toelle-Jackson (BLM) added that sometimes there is confusion with the public about number of cattle vs. AUMs and which allotments or pastures are used and when. Remember that there is a permit *and* an Allotment Management Plan, and both need to be looked at when understanding how grazing is authorized in each area.

Wild horse herds have their own management plans which outline the carrying capacity of the landscape, and those numbers are calculated/estimated and included in range management decisions. There are grazing allotments within many wild horse Herd Management Areas.



The documents shared at the meeting regarding grazing and grazing regulations are here: [https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy\\_ol3yr9I92](https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy_ol3yr9I92)

### **National Environmental Policy Act (Autumn Toelle-Jackson, BLM Burns District Planning and Environmental Coordinator)**

The BLM has a NEPA handbook and numerous other pieces of policy and guidance to direct the agency's NEPA work. The National Environmental Policy Act assures that all branches of government give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment. The NEPA encompasses various analysis documents - depending on the scope, scale, complexity, etc. of a project - to help form land management decisions and involve the public in the process.

Autumn reviewed a handout with information about the basics of NEPA including its origination, flow charts of NEPA processes, different types of NEPA documents, NEPA document decision authorities, public involvement, scoping, providing public comments, and litigation. This handout is very detailed and located here: [https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy\\_ol3yr9I92](https://drive.google.com/drive/folders/1GVehAJI15ZRVKu24yvRpPy_ol3yr9I92)

Teresa asked if there was a project or decision to be done/made and it will very clearly be controversial but not necessarily have an "impact" (social, economic, etc.), does the agency go straight to the Environmental Impact Statement process to help with 'justification'? The answer: sometimes! The Bridge Creek Area Allotment Management Plan EIS is a good example of a 'yes' answer to this question.

For public involvement in NEPA processes, the type, frequency, and duration of involvement depends on the project/resource/topic, its complexity, what the authorized officer feels is necessary, etc. Environmental Assessments (EAs) and EIS documents require public involvement, while it's optional for Determinations of NEPA Adequacy (DNA) and Categorical Exclusions (CX). Sometimes public involvement may include a field trip, a mailing directly to interested parties, an open comment period online (via ePlanning.blm.gov - BLM's national NEPA register), a public meeting, etc.

Reminder that the BLM is always open to comments and input from the public. If that information isn't included during an official comment period, that's okay! The agency doesn't have to respond to that input in writing in the NEPA document but will still accept and consider your input.

Several members of the council acknowledged the difference in substantive comments vs. form letters and science/facts vs. 'popular vote.' Some qualities of a substantive comment are: references document pages, chapters or sections and uses objective information; uses facts to question the adequacy, accuracy, methodology, or assumptions of the analysis; presents traditional or ecological knowledge; proposes a reasonable new alternative or revision to the alternatives presented; and/or identifies a passage in the document that is unclear.

Form letters typically come from organizations that have a single focus, but the BLM follows a multiple-use policy. Autumn noted that sometimes decisions might not benefit every resource equally, or maybe even have some positive impacts in some areas and a negative or neutral impact in another.

### **Public Comment Period**

Mark Salvo, Oregon Natural Desert Association: Congratulated Jeff on his upcoming retirement but said everyone at ONDA voted 'no' and that he'd have to continue with the BLM.

Karen reminded the group that geology is an important part of Steens Mountain ecology. It's a fault block with a huge amount of elevation change and a lot of landscape above 8,000'.

- All around the fault block are deep basins, keeping species from different elevations unique and isolated.
- There are many transition zones between various things as well.
- Diversity in plants and wildlife, unique wild horse herds, woody riparian areas, amazing wildflower displays, snowpack for an amazing matrix of wetlands, providing a rain shadow for the east side of the mountain/Alvord desert, special riparian and alpine areas – things to really take a look at and be careful of! Examples - the Steens Mountain thistle, and the Black rosy finch which nests on Steens Mountain (the only place in Oregon).
- Sage grouse are another special species on Steens Mountain.

Lee Foster stated that Sage grouse actually put on body weight in the winter, eating a diet completely composed of sagebrush! They can survive in the higher elevations better than big game animals.

Teresa stated that alpine areas are under threat because of climate change, making it extremely important to make sure good habitat remains in abundance to support species that live in the Steens ecosystem.

Riparian zones used to be rich in beaver on Steens Mountain. Mike said there are tons of beaver on the refuge, in the flatland, occasionally plugging the canals. Teresa said there has been conversation about relocating beaver into the forest and up into Steens Mountain, however, a single beaver in a fairly shallow creek is very susceptible to depredation. Via Zoom, BLM District Biologist Matt Obradovich added there are beavers in Upper McCoy Creek, Ankle Creek and Lower Mud Creek. Public participants Steve and Marilyn said there are plenty of beavers at Fish Lake as well. Conversation about beavers continued for quite some time with varying stories from several people.

The hardest areas to manage in a desert environment are the wet areas! We must understand what the goals are for the area and understand that individuals' impression of what a riparian zone "should" look like may not be accurate.

#### **FRIDAY, JANUARY 26, 2024**

Tara welcomed the group, recapped Thursday's session, reviewed Friday's agenda and went through basic meeting logistics before moving into the schedule.

**Steens Act Panel Discussion (Stacy Davies, Greg Walden, Bill Marlett, Lindsay Slater, Fred Otley)**

At the SMAC's October 2023 meeting, they suggested inviting a panel of people to the next session, who helped developed the Steens Act, and asking them about original intentions, conflicts, what has gone well/not so well, etc.

- What was the intention of creating a unique framework for the Cooperative Management and Protection Act (rather than following a more conventional route such as designating Steens a national monument)?

Greg Walden: From the get-go, one of my charges to Lindsay [Slater] was to write a law that works differently and uniquely for a very special place. We don't have to tuck something under an existing law – we can write something new! The idea started with Bruce Babbit who created a Rangeland Reform effort, Resource Advisory Councils, etc., and determined that no designation was really needed for Steens. But the people moved forward anyway, with special protection specific to Steens with new authorities, broad public involvement, and local engagement.

Bill Marlett: From the conservation community, we wanted to piece together something that would look at the Steens ecosystem in its entirety. That was really the basis for pushing all the stakeholders together to come up with a unique management solution. ONDA had already been advocating for some sort of national designation for protection of the area. ONDA also wanted to see more of Steens Mountain as "livestock free", as demonstrated by the success on Hart Mountain National Wildlife Refuge.

Stacy Davies: Echoing Bill and Greg, agreeing that landscape level management was critical, especially because there is a lot of private land within the Steens area. Grazing privileges, mining, recreation existed as well, and a uniquely structured law was necessary where multiple facets could come together and agree on things. Another big piece was maintaining local control over the area. Local people were able to be at the table for the development of the act and local people were able to continue being involved in management practices.

Lindsay Slater: When Babbit suggested a monument designation for Steens, Greg and Lindsay talked and knew "we could do this better". There were two hooks: "cow free wilderness" (took that to Peter DeFazio first to get his buy-in...who listened well but challenged the concept and ultimately agreed to try it and get the rest of the delegation on board); and land transfers (taking care of internal issues – federal government to acquire private lands that were dispersed in certain areas to help mitigate conflicts in special areas and work operationally for inholders). The land

transfers happened fairly quickly, and a lot of credit goes to the late Bill Smith for helping with the financial values.

Fred Otley: The intention was really to move forward and do business in a new way, especially because the designation of a monument just wouldn't work. We all felt that legislation to build a comprehensive, cooperative package would allow forward progress in preserving the mountain. The new framework would keep the mountain protected but keep interests served and in place.

- Do you think it was still the right solution over a monument or other formal designation?

Fred: Definitely. And it's the most creative piece of legislation known of and still has many opportunities to make management opportunities better over time.

Bill: If the Steens legislation had failed, a monument designation or proclamation would have been better than nothing. Otherwise, we wouldn't have been able to deal with the proposed wind project on the Steens, proposed lithium mining on the Alvord Desert, etc. The Steens legislation allowed for addressing specific land exchanges and doing brand new things like the cow-free wilderness.

Greg: Yes! This was definitely the best approach because it is unique and gave a very big voice to a variety of stakeholders.

Lindsay: The bill really put the ranchers in the best place possible, at least better than where they would've been with a monument. It also gave the best protections for the landscape that it would've had with a different kind of designation.

Stacy: Absolutely, yes. Monuments and bigger designations usually attract more tourists and paved roads and this unique designation helped with multiple protections in that arena.

- Considering the past 24 years, what have been the biggest successes and biggest disappointments?

Bill: Disappointment – the Steens Act authorized \$15M for implementation of various actions, but those funds have yet to be appropriated by congress. The Steens Act was great in what it did, but it was always anticipated that there would be a Steens Act II to “finish the job” – there is a lot of legislative work that needs to be done regarding land acquisitions, changes, designating more wilderness, etc., so it is disappointing that

hasn't happened yet. For successes, BLM's engagement in the planning processes (irrespective of the setbacks from litigation) has been great in moving the agency forward in terms of relationships, connection to the landscape in a way that is more ecologically sensitive to the mountain and its like-stakeholders.

Stacy: Landowners are grateful there wasn't a monument because those are very heavy-handed in management. The Act isn't perfect by any means. There is a lot of opportunity in it for unique conservation agreements and it could be used to do so much more positive...locals and landowners are still waiting for that to happen. The SMAC has had a lot of successes, involvement, good discussions, creative solutions, etc. When we can avoid court and litigation, it is a good thing, and the SMAC can help do that. The biggest failure is probably ecological health with the huge Medusahead invasion and a lack of wild horse management, particularly.

Fred: Disappointments – if you look at the Steens Act, section 113, under juniper management, there needs to be more action to get ahead of the juniper dominated-landscapes. This hasn't happened, but part of that is because of other policies coming into play, like Sage grouse protection. Introducing fire into wilderness or wilderness study area still hasn't happened. Overall, ecological integrity hasn't been preserved by way of the unique provisions in the Steens Act. Act language should allow the agency to do new and unique things, but it hasn't in many areas. It still has potential to do so, but what laws and policies supersede others remains a question and disagreement among many. Successes would be all the conversations among the diverse interests in working out complex issues for the benefit of the mountain *and* the people. The Steens Act has also protected some cooperative management efforts that were specifically outlined with language in the Act.

Lindsay: Fencing provision in cow-free wilderness is a success; it was the intent of the Act for the BLM to pay for the fencing to keep cows out of the No Livestock Grazing Area. For successes, overall, the Act has been much better than "status quo". It has also been a model for future wilderness areas and other unique and specially designated areas. The Steens Act was really the first collective and comprehensive ecological and social management plan for a specific piece of public land.

Greg: Successes – Redband trout protection (removing dam), protected private property rights, succeeded in land transfers in record time, and went as far as legally as could be done to give the SMAC as much authority as possible and empower local entities to be immersed in local land management. Disappointments – more invasive species management (juniper, invasive species) needs to happen. Greg doesn't recall the idea of a Steens Act II and said often when you reach agreement on big things like

the Steens Act, the general sense is to get agreement on many things right up front and then move forward with local-level planning and implementation efforts. Also disappointed in the NLGA fencing cost issue. Going forward, Greg wants to keep the SMAC populated and engaged and keep sight of the important work done and in doing!

Cliff asked Bill: What paid for the land exchanges? The answer: Congress. The \$15M in authorized in Steens Act was supposed to be a separate appropriation for projects implementation, other planning, etc.

Cliff asked Stacy: What did you say about a monument bring visitors to Steens? Stacy reiterated that a national level designation, something with a well-known moniker like “monument” would single-handedly attract more people to the area. The word ‘monument’ in itself is an attraction, no matter what the landscape has to offer. And it comes with more rigid management as well.

Bill said it was definitely an issue within the conservation community about the notion of a monument or national park vs. strictly wilderness or a National Conservation Area with wilderness. It is a double-edged sword, really – Harney County, being the gateway to Steens Mountain, could really benefit from tourism to the area. However, at the same time, there is concern about ‘excess’... people, recreation, use, development, etc. The Alvord Desert is a great example of this. That area is very different than it was 25 years ago. What is the best mechanism to deal with the number of people we anticipate coming to a landscape? There is no easy answer.

Greg – Attracting more people to the area was a secondary consideration, but still very important. There was more at play than more or less visitors, namely the protection of the ecosystem while still providing for private property rights, stakeholder needs, etc.

Fred – The Steens Act has been successful in preserving the grazing presence on Steens Mountain which protects the ecological integrity of the dynamic nature on the mountain and balances the concept of open space. If you take away the business aspects of private properties, those areas will develop into something else that may be much less favorable.

Butch also asked about the \$25M that was authorized in the Steens Act - is it accessible? Right now, it is not. It was ‘authorized’ but hasn’t been ‘appropriated’ by Congress (in 24 years). It’s like having a check ready, but no money in your account. This is not an unusual situation but is definitely frustrating and a two-step process. It’s

easy to point fingers at Congress, but sometimes funding appropriations depend on what is ready for funding and what isn't.

Don Rotell asked about Greg saying, "this is not your father's wilderness bill". There are many different special management areas, and each comes with their own set of regulations and policies that have to be followed. For the people on the panel, Don asked 'was the intent to always have something where things were done differently? Was the intention to leave the agency to sort out the differences in management directions between the Steens Act, Wilderness Act, etc.?'

Bill – When the Act was in development, the conservation community was looking from a legal standpoint at the designation of wilderness as Wilderness...not setting the Steens Act on a "higher plain" than other laws. The Steens Act is really the glue that holds the landscape together, but the individual pieces on the mountain still have their own regulations that must be followed.

Fred – If you go through the Steens Act language, there are a number of sections you can lay out together that push things towards better management overall. The Steens Act provides a mechanism for guiding management planning and comprehensive goals and objectives that may push or exceed the rigid boundaries of previous laws like the Wilderness Act.

Greg added that the intent was for the Steens Act to be a unique way to do things and the new way to do things. The new law provides new authorities to do things. This issue remains of varied opinion.

Stacy said the reality is that we are probably in conflict over the intentions and interpretations of many things in the Act. At the table each thought they were getting their preference (Steens Act trumps others, or others trump Steens Act, etc.). Stacy thinks there is language in the Steens Act that enables the BLM to do different things in wilderness administration that may be different from the Wilderness Act. This will continue to be an area of contention until a governing body addresses it. Stacy suggested the SMAC could potentially deal with this, possibly through legislation.

Mike said there are places in the Steens Act that conflict or have inconsistency, like inholder access. The Act says it (the Act) shouldn't interfere with private property rights, but other laws and policies are impeding things...like access. Depriving a landowner the use of his land without due process runs into 5th amendment issues. This needs to be resolved – specifically section 112(e)(1).



Stacy stated that any law that has ever been written has language that requires future interpretation for implementation. He reiterated that the SMAC may very well be the avenue to get some of the Steens Act conflicts resolved. The various stakeholders are at the table, difficult conversations can be had, creative solutions can be made, parts of the Act can be clarified or remedied, etc.

Greg agreed, and elaborated on private property rights, access, etc. for inholders. Lindsay supported the notion that the intent of the Act was to continue allowing private property owners access and use of their property.

Bill noted the expeditious composition of the Steens Act and felt that more time maybe would've brought some more clarity to the language, but we are where we are. And however we want to deal with it – judicially, executively, administratively, etc. – is up to the people.

Jeff thanked everyone for participating and has enjoyed having the privilege of working on the Steens and working with the Act that everyone put together. “What you did in the short amount of development tie was amazing! If you had more time, what would be different?”

Greg – Would've included language to remove Wilderness Study Areas that were determined to not have Wilderness characteristics but couldn't get agreement from other parties involved. More broadly, we probably could've used the Steens Act (with the longer development period) in other efforts across the west, like the checkerboard of public-private lands. Legislation is also about who is in the right place at the right time!

Bill – Everything didn't necessarily come together at the last minute, even though the timeframe was short. Babbit had already approached the SEORAC to put together a plan for a conservation area in 1998/1999 and there was another effort to come together with stakeholders after that, which also didn't work. The deadline with Clinton leaving office really pushed everyone to make something happen, so I'm not sure how things would've panned out with more time. The conservation community would've liked to see some different things, like all the WSAs going into Wilderness.

Stacy – With the short amount of time, the Act is mostly right. It would never be perfect, even with more time. There will always be people with different opinions. It is a lifetime, ongoing process, that the current people will have to interpret and deal with. Perpetually. Keep working through it and finding solutions. Look at each other and move forward instead of backward.

Fred – One area we could've done better on was historical access, roads, etc. Also, if Wilderness could improve with something like the Steens Act, the Steens Act would be a great example for use across the west. This is a great opportunity for successful watershed and ecological management.

Cliff talked about commercial outfitters, particularly the historic Steens Mountain Running Camp, and wondered why it wasn't specifically mentioned or "grandfathered in" through the Steens Act.

Bill – On an administrative level, many of which were not participants on the Steens Act itself, you can never predict what the issues will be moving forward and who will take an interest, disagree, etc. You can't anticipate every circumstance and include it.

Lindsay – We simply missed the Running Camp and think we would've had broad support if it was included.

Stacy – At the passage of the Act, there were six other Special Recreation Permit holders and many others not permitted using the mountain. If you start naming some businesses, you are probably not naming others. This could turn into a problem. A similar example would be livestock operators with trailing permits, or people who've been trailing for 100 years without a permit. The Running Camp is big, and obvious, but there are layers underneath that have to be considered as well.

Fred – Historical use was discussed in the Act, but really could've been better. Fred agreed with Stacy's sentiments and said there are lots and lots of uses on the mountain and naming some means excluding others. It's complicated but could be revisited in some way.

Greg – There were many conversations about the Running Camp in the development of the Act, so the pressure against its continued existence was a shock. There was a hearing about it in Frenchglen to help clarify the intent with the Camp and there is a Congressional record of this if you are interested.

Butch said it is obvious the intent was to get local input and a local level of control. As we look back to the beginning of the SMAC and its history over the years, there have been many times the SMAC hasn't had a quorum. That is a major issue. Why did the Act specify 9 members as a quorum instead of the traditional majority?

Stacy – These kinds of groups ideally reach consensus, however, if you only have 7 of the 12, the direction could certainly go in one direction without representation or buy-in from all perspectives. Having 9 people as a quorum makes for a much more balanced agreement. Otherwise, there is a high likelihood of agreements being challenged by those unrepresented after the fact. Broad-based support is essential, and the SMAC needs 9 to get there.

- What is your perception of the relationship between SMAC and the BLM, and SMAC and the general public?

Bill – Interesting question. From what I have seen, having watched the SMAC over 20 years, the relationship between SMAC and BLM has been good – a informative dialogue, inquisitive questions from SMAC to BLM, etc. To what degree BLM has followed SMAC’s advice...I don’t completely know. For SMAC and the public, again, you’d have to inquire with individual SMAC members to what degree they feel they are representing constituents. From the environmental community, the relationship has been good overall.

Fred – When vacancies aren’t filled and the SMAC doesn’t have a quorum, that really gets in the way. The relationship between SMAC and BLM has been great and seems to have helped the agency look deeply and ask ‘why can’t we do this? How can we make this creative solution work?’ The SMAC is vital to keep working on consensus management.

Stacy – The relationship between BLM and SMAC has been pretty good minus the vacancies. BLM leadership should see the SMAC as an opportunity, not as a threat, and use it to its fullest advantage (avoid litigation, reach out to constituents, etc.).

Greg – There is only one SMAC in the entire Department of the Interior. It is unique! Take advantage and use it to its fullest potential.

Jake – Taking the devil’s advocate point of view, if the SMAC does not have a quorum, we can’t function. If the SMAC can’t function, is it being viewed as an administrative hindrance? Is this the opinion at the higher levels? How can we get the higher level to accept new members into the council quicker, with more transparency?

Stacy – We used to be able to work directly with our Congressman to make things happen, so it really has to go back to the SMAC and especially the chairperson. You all really have to reach out and sound the bells. Talk to the people, talk to your politicians, call BLM headquarters. Apply the pressure.

Jeff reminded the group that even if you don't have a quorum, the agency still hears you! The BLM is still listening, and is committed to meeting, gathering, talking, etc.

Cliff said it almost feels like a conflict of interest to be appointed by the Secretary of the Interior instead of the public, or something more transparent and outside of the agency.

- Based on your current knowledge of all things "Steens Mountain", do you have any significant concerns for the future?

Greg – First, thank you to everyone who participated in the discussion today – it's been a positive renewal that these processes really work. Going forward, the fencing and access issues remain, best tools for management need to be sharpened, juniper management in the wilderness needs to be tackled, etc. Remember that the statute gives the SMAC as much leverage as possible and gives the agency unique opportunities for new management.

Bill – Issues like climate change are something that weren't contemplated 24 years ago but is of concern now. The recreation use (at least on the Alvord) will need to be considered for increases in the future. We would ideally like to see no litigation on Steens – it is a huge time and resource consumer, and it would be great to move away from that.

Stacy – Concerned about wild horses and medusahead and people unwilling to put the time into the management the mountain deserves and requires. Wild horses are an important part of Steens Mountain, and their impacts create issues and conflicts in numerous ways (users, horses, conflicts on the ground). The Wild Horse Management representative on the SMAC is intended to represent the horses, the people interested in the horses, the ecology of the mountain and the equine role/impact/etc.

Fred – Look at the real threats to the mountain and tackle those head on.

### **Public Comment**

Julie Weikel: It was a great morning revisiting the whole process with all the major players in place – glad to see the SMAC functional and with a lot of enthusiasm!

Rand Campbell: Enjoyed the discussion this morning and appreciates the committee members working on access issues.

TJ Barbour: Impressed to see new attitudes that bring positivity to the group – fresh ideas and interesting conversations likely coming! Regarding the Wild Horse Management position, TJ (Oregon Wild Horse) asked that this person represent all the aspects including advocates, the animals themselves, etc.

Lorna Torrey-Palermo: Impressed with the group and it is exemplary what they are doing. Everyone doesn't always get what they want, but you are listening to each other and that is important. Regarding the Wild Horse representative, Lorna would like to submit a written comment about why some nominees have not been appointed. Lorna appreciates the BLM being receptive and helpful.

Tenaya Jewell: Regarding the Wild Horse representative, Tenaya is happy to hear that it is an important position, and that the Council would like it to be filled.

### **Strategic Planning effort (Mike Fox, SMAC Private Landowner Representative, Chairperson)**

Mike started the conversation by stating that SMAC cannot necessarily plan the direction the agency is going to take. SMAC should focus on specific projects or issues we can sink our teeth in to.

Tara shared the three aspects of Strategic Planning the SMAC discussed and favored at their October 2023 meeting. Those aspects, with new ideas/tasks for each, are:

- Council Foundation - relationships among members, help each other understand roles, outreach to constituents, helping BLM keep SMAC positions filled, active engagement in development of agenda, formal in creation of subcommittees.
  - o Identify options for avoiding a repeat of a sustained lack of a quorum.
  - o Continue social gatherings; outside-of-meetings conversations.
  - o Field tour at next meeting.
  
- Skills and Knowledge – give advice based on reality, be fully informed about laws and policies and regulations, always be learning,
  - o Continue reviewing a section of the Steens Act at each meeting; include charter on occasion.
  - o BLM suggest policies for SMAC to read, research, refine, etc.
  - o Grazing science presentation
  - o Archaeology around Steens Mountain; indigenous people; BPT history on the mountain
  - o Wild horses on Steens Mountain

- Fire management/juniper management
- Strategic initiatives - what are current commitments (either carry them through or shut them down), what does the Act say, what are constituents asking for/talking about, etc.
  - Resolving the inholder access issue - discuss conflicting language in the act; poll inholders and discuss their needs; come to a resolution within the SMAC about the intent of the language and provide the consensus to BLM. There was a lot of discussion about reasonable access, private property rights, etc. The sticky point for most of the inholders is access in the Wilderness and what laws and policies dictate allowances. Plan and secure reasonable access for the public in the CMPA.
  - Continue work on the inholder/edgeholder initiative – conversation evolved about previous discussions on this effort; summaries are available on the SMAC google drive.
  - Develop a comprehensive fire management plan.
  - Ecological project that may bring beavers back to the Steens.

No matter what, SMAC must find their constituents, connect, share information, have conversations, and truly represent a population of people with varied interests.

Jeff added that we have a very talented recreation staff, and the SMAC could really benefit from looking deeply into recreation uses, needs, impacts, protecting values side by side with users coming to enjoy it, etc.

Kali appreciated the conversation with the panel members this morning. She is curious about juniper control and fire use/management, as well as fire use and management within wilderness and WSA.

**Follow-up/Close-out/Next meeting planning:**

Tara wrapped up the meeting with follow-up items and next meeting planning:

- Make sure all January 2024 meeting handouts are on the SMAC Google Drive.  
TARA
- Compile/organize on Google Drive "what's been done so far" on the inholder/edgeholder initiative. TARA
- Compile/organize on Google Drive "what's been done so far" on inholder access.  
TARA

- Mike, et al, start diving into the inholder access issue in preparation for the June meeting (after information is compiled). MIKE
- BLM to list text / sections / etc. in the Steens Act that are / appear to be conflicting (roads, access, language, interpretation, 'reasonable', etc.). TARA/ JEFF/DON
- Try to get "about SMAC" on BLM social media; find other ways to engage the public in SMAC. TARA

Next meeting: June 13 (Steens field day) and 14 (office session), 2024, at BLM Burns District Office – 28910 Hwy 20 W, Hines, OR 97738

June meeting agenda, potential topics (so far):

- DFO report (Steens Travel Management Planning, Bridge Creek AMP EIS, Steens Rockfall EA, Smyth-Kiger EA, IRA funding/projects)
- Page Springs Weir (field trip?)
- Nature's Advocate LLC Inholder Access EA (?)
- SMAC Strategic Planning/Steens Act Review: specifically start discussing 'conflicting' sections/interpretations of Steens Act
- SMAC Strategic Planning: Archaeology/indigenous people/Burns Paiute Tribe history on Steens Mountain

Minutes approved by/on:



Mike Fox, Chair  
23 February 2024