

Steens Mountain Advisory Council

Meeting Minutes

April 13, 2004

Members Present:

Hoyt Wilson, Grazing Permittee, Princeton, Oregon
Jerry Sutherland, Vice Chair, Environmental Representative – Statewide,
Portland, Oregon
Tom Harris, Chair, Mechanized or Consumptive Recreation, Keno, Oregon
Alice Elshoff, Environmental Representative – Local, Frenchglen, Oregon
Stacy Davies, Grazing Permittee, Frenchglen, Oregon
Cynthia Witzel, Recreation Permit Holder, Frenchglen, Oregon
E. Ron Harding, Wild Horse and Burro, Burns, Oregon

Members Absent:

Wanda Johnson, Burns Paiute Tribe, Burns, Oregon
Steve Purchase, State Liaison, Salem, Oregon
Jason Miner, Fish and Recreation Fishing, Portland, Oregon
Richard Benner, No Financial Interest, Portland, Oregon

Designated Federal Official (DFO):

Karla Bird, Andrews Resource Area Field Manager, Burns District, Bureau of
Land Management (BLM), Hines, Oregon

Designated Federal Official Assistants:

Rhonda Karges, Management Support Specialist, BLM, Hines, Oregon
Liz Appelman, Budget Analyst, BLM, Hines, Oregon

Presenters:

Nora Taylor, District Botanist, BLM, Hines, Oregon
Jeff Rose, Fire Ecologist, BLM, Hines, Oregon
Lesley Richman, District Weed Coordinator, BLM, Hines, Oregon
Bonnie Rasmussen, OR Dept. of Agriculture, Burns, Oregon

Facilitator:

Dale White

Commenting Public:

Susie Hammond, Hammond Ranches, Inc.
David Blair, representing George Stroemple

Most members felt the decision had been a hard fought solution and didn't wish to revisit it.

Cindy expressed the view that if the conversation about some of this cannot be brought forward and we don't have a quorum, then the meeting should be ended. She expressed major concerns of how the BLM had interpreted the decision as well as a number of people's comments. She was shocked at how wrong BLM had interpreted them. Members discussed the concern that if a member wanted to bring up something contentious and it didn't get settled their way, they should not go to a Congressman or State Director and have it brought back to the table again.

It was noted that the SMAC did not have a quorum.

Motion made and seconded to amend the agenda and go to those items that are informational, if the specialists are available, and reevaluate the agenda after these are completed (Stacy moved, Hoyt seconded).

No objection heard.

Consensus: Amend agenda and proceed with informational presentations and reevaluate agenda afterwards.

Aspen Monitoring Project:

Nora Taylor, District Botanist, gave a presentation on the aspen study that has been ongoing with the BLM and the Steens Alvord Coalition. The study was designed and completed by Duckfoot Survey Company. She answered several questions by Council members.

Fire Management Plan:

Jeff Rose, Fire Ecologist, told the group Mike Morcom, Fire Management Officer, apologized but was unavailable because the time change on the agenda conflicted with a prior commitment. Jeff brought the Council up-to-date on the status of the Fire Management Plan; how it fits in with other plans; what areas it covers; what agencies are involved; timeframes; and the various fire management units and their boundaries.

Jeff brought forward Mike's concerns about fire within the Wilderness area: because of its size, how the fire can grow, the area being cow free, the fact there isn't really any history of how fire acts within that type of area under those circumstances, and what happens once it burns out of Wilderness.

Agenda Update:

The Council discussed the various perceptions each had about whether or not inholder access and snowmobile access should be discussed during today's meeting. Cindy stated she didn't feel BLM was interpreting SMAC's recommendation correctly. Jerry didn't feel it was correct for something to appear on the agenda because of outside influence

such as the State Director or a Congressman without first getting approval of the SMAC or at least the Chair and Vice-Chair.

Motion made and seconded to set aside time to talk about access (Tom made, Cindy seconded).

Objection heard (5 votes for, 2 against need roll call). Motion passed due to majority of those present, the motion being acceptable given it is administrative rather than a recommendation.

Discussion: Tom said he talked earlier about inholder access and it was a particularly hard won decision with a lot of give and take. He felt pretty good about the SMAC recommendation. Having to revisit it seems to mean either SMAC missed something or a particular inholder is unhappy. He outlined some of his misgivings about adding snowmobile use and Berrington Trail to the decision.

Cindy is concerned the BLM's interpretation did not include the access that had been agreed to, which she believed was when the conditions on the Mountain allowed, access to property was a given by the means the Mountain allowed. If that was snowmobile, then it was snowmobile. She felt the rules would be acceptable as long as they apply to everyone.

Stacy questioned how far back in history or what evidence might be needed to show that access by snowmobiles occurred in periods different than that identified. Karla responded the BLM was looking at regular use rather than the one-time type of use that may not happen every year. Testimony gathered by staff indicated no historic use of either method of motorized access by inholders or their leaseholders at the time legislation was passed.

Jerry stated he had not considered snowmobiles or Berrington trail as part of the decision SMAC had made. He believed the decision included use on-the-ground and he did not wish to revisit the decision.

Stacy stated in his belief when the Mountain conditions allowed different uses, those would be the appropriate ones. Berrington Trail had previously had motorized use so if the conditions on the mountain allowed motorized use, then it should be available. Hoyt also agreed with Stacy's beliefs on what had occurred.

Cindy didn't feel there were sufficient references to the purposes of the Act. She thought the decision was innovative yet BLM took it and made it fit old parameters. She felt as long as it was within the purposes of the Act and didn't breach ecological integrity, it should be allowed. She thought the agreement SMAC had struck allowed BLM flexibility to do that. She believes the BLM needs to justify their stance better because there is no evidence to support it.

Jerry felt SMAC's guidance to BLM was not specific to just this EA; it was guidance for all EAs. He believed SMAC used this one as a tool to work with and in the guidance was a motion where SMAC told BLM they needed to consider all the scoping comments

before they came out with an EA. He asked Karla if this had been done, and she replied in the affirmative.

Harland said he didn't understand when snow is on the ground, why things have to change since it never changes in any other part of the world. When snow comes in Burns, you put your car in four-wheel. People don't stay home. They go to work and continue to go places. He never understood why when snow hits the Steens, why common sense and some limitation can be in place. But when you have property on Steens, in the winter time mountain conditions will limit the means of transportation. There is no reason to limit access to any certain period of time. When a private landowner wishes to access their land, the Mountain will dictate what means is used. Why shouldn't landowners be able to have solitude on their own property. Steens can be a pretty dangerous place at times. Harland asked if a landowner should have to cross country ski to get to their property or should they be able to access it by a safe means. He wondered isn't it common sense if you have property in Wild Horse Valley why should you have to go 200 miles out of your way to access it. He asked where the compassion is for that individual. Do we eliminate all kinds of common sense in order to meet goals. The trail has been there for a long time. As far as he knows that particular party is willing to use hand tools to get it so it could be used for access to their property. Why does common sense get thrown out of the window so that we can grow a jungle of bureaucracy? Harland stated winter should not change anything, merely slow things down and figure out a different way to accomplish them.

Tom Harris looked at time limitations when the Berrington trail could be used, and how inclement weather, road damage, etc., might restrict use of the trail. He did some research and found people who had gone down the trail but only twice. Those were recreational users riding motorcycles who said it was nearly impassable by them. One of his concerns arises from safety issues and creating a BLM liability. Another is how much work would be needed to make the trail sustainable and that it would take more than hand means only.

Ron said even within him there are conflicting attitudes. He believes in unfettered access. On the other hand, the conflicting part is wondering what kind of use has been there to date. He felt Jerry and Alice had gone as far as their constituents would allow in September and so discussing it more would likely be contentious without a positive outcome.

Stacy wanted to make several points. He felt the beauty of the consensus agreement was that it had built into it to take care of itself, that mountain conditions would restrict use. Monitoring would show if the Berrington Trail is that sensitive. He doesn't see how snowmobiling will change conditions in order to restrict it. In part he tends to look outside of the little box. It scares him to death that Jerry's reminding him what was decided in that meeting applies to all access on the Mountain. That makes him think they better get a cat out on every road and make sure to drive up and down the road to protect that use so when he's asked two years from now, he can honestly say he was up and down that road 100 times. This is the spin off of what we are doing when SMAC goes

down these roads. He has neighbors with importance of gaining easements and ROWs to their property and that is where this is pushing him on a lot of things. Those are the main things he is unhappy about and where this appears to be headed. He doesn't see any cooperative management happening in the future. Small fights will occur over the wilderness access but once past wilderness into the CMPA, he believes it will be a bloody battle and he doesn't like that thought.

Hoyt believes the agreement SMAC hammered out pretty well covered the situation and feels like winter access was covered although not specifically, and saw no need to revisit it. The Berrington Trail to him is more a question of removing the conflicts between the people who are accessing private property and the people who are backpacking into that area. He believes it makes sense for Stroemple to take a four-wheeler to improve the trail in order to get up there. That is the only real bottleneck (2 rock slides) and if he wants to use his property access in summer months, it would alleviate problems with other users. In that way Hoyt is in favor of it

Alice thinks the snowmobile issue is settled and done with although she could perhaps entertain use by Stroemple of Berrington Trail if another road could be closed.

Cindy wants all the energy the SMAC put into this decision to matter. However, she thinks the bottom line for those who own property within the CMPA and wilderness and within Harney County is they expect to access their property when they want to for whatever need or enjoyment. She believes that is going to continue to be the expectation of any who own property. She was hopeful that SMAC's decision, SMAC's recommendation, in Bend, which she agrees with Jerry, was built to encompass all property. It was a recommendation that paid respect to private property owners as well as to the other side. She feels at this point the other side has no respect for private property owners, and no respect for that freedom of having what private land involves. Those, to Cindy, are different than her BLM recreation permit. She believes the permit is a privilege for which she willing goes through all the requirements. The ability to access a person's property is an entirely different thing, a right worth going to the wall for. She wouldn't do that for her BLM recreation permit. She believes Harland had some excellent points about manifest destiny in yesterday's meeting. It is difficult for her to not have suspicions about an agenda and to not think ten years down the road when her property on the Loop Road is restricted for access as a result. She sees no evidence to give hope to landowners because at every meeting there is a discussion of private property access.

Jerry wanted to say for reemphasis he is not taking a position on the Berrington Trail or snowmobiles. SMAC reached a decision and gave BLM their guidance. BLM has heard it, and it is now their call. He is not going to get into specifics of those items unless we want to have another meeting to go all over it again.

PUBLIC COMMENT:

Susie Hammond, Hammond Ranches, Inc., reminded the group the Steens Loop Road was not always locked and access controlled. This became the case when BLM and all

the landowners met to make the decision to close the gate to stop vandalism to private property as well as to stop erosion of the road. She stated it was in no way to stop access to private property. It was to restrict public access. As far as people who own property, there should not be any consideration of giving up access to get something else.

David Blair, representing George Stroemple, expressed appreciation for the SMAC taking up inholder access believing it is important to get it right. If it meant bringing it up again, that is what should happen. It is his client's hope that the SMAC will bring an end to this argument so the next several years don't have to be spent fighting over it. He thinks it is a very significant issue in principle, but minor in effect. David stated the Mountain is a place where conditions can be hostile and will dictate use no matter the season. Conditions on the Mountain, whether it be snow in the winter or dryness in the summer, will dictate the type of access that can be used. When Congress wrote the Wilderness Act, the Steens Act and the Alaska Act, they always came down on the side of the private landowners. David explained the Alaska Lands Act came in response to an argument in which the Burlington Northern Railroad wanted access to checkerboard land. The Forest Service was taking the view they would not allow that access because of roadless concerns. The Senate deemed the Forest Service didn't have the discretion to deny access. David said private property use and access is a very fundamental issue in Congress. David went on to point out the various regulations and statutes; when they were passed; and how they are applicable. He stated that what was in use at the date of the Act is what is allowed. The agency doesn't have discretion to decide what that means. What is evidenced at date of enactment is what is allowable, that is the crux of the matter. David stated the Wilderness Act is an extremely permissive piece of legislation. The reason it is written that way, is that it is a political document. The goal of the Act was to protect habitat, etc., and to have those kinds of places in Wilderness. There were compromises to get it through. In intervening years, David stated it had come to the attention of purity groups who have different sorts of goals from that led by more traditional conservationists and to not sweat that kind of stupid stuff. Mr. Stroemple has been on the mountain since he was nine years old and it is completely reasonable for him to want to go to his property on Berrington trail. The level of use required will be incidental and it is reasonable. It was wished for the inholders to use existing roads and not build new ones. Mr. Blair stated no one disputes the fact that the Berrington trail is an improved route.

Bill Marlett, ONDA Executive Director stated he almost felt the need to apologize for being one of the co-drafters of the Steens Act since it is causing such confusion. He stated he suspects at this juncture the judge will have the final word of what was meant four years ago. He wanted to take this time to comment that he agrees with Dave. The issue is mole hill in size relative to the bigger picture. Bill said that when the Act was being drafted, they didn't get into a lot of detail. He said there seems like there is a fear factor that is unwarranted. When they drew the boundaries for what was going to be Wilderness, this included the inholdings of willing sellers being acquired. He believes that is where this group needs to be focusing, focusing on that long-term goal not getting hung up on nuances. There was no hidden agenda with respect to how inholders or anyone else would be treated with respect to their access. Bill stated they drew a bright

line between this Act and the Wilderness Act. There would be no exception to the Wilderness Act in overarching Steens Act itself. This would have been a deal breaker. The Wilderness Act would stand on its own with no exceptions written into the Steens Act that would have compromised existing policy under the Wilderness Act. Bill said that is what was intended. With respect to Mr. Stroemple, Bill stated that they did try to work something out with him several months ago. He considers Mr Stroemple to be an ally on the Mountain. Bill believes he does a lot of good things for the landscape and hopes to have a long-term relationship with him. It is unfortunate this particular issue is getting in the way of a longer term vision. He thinks perhaps it will come, but it may be a rocky road given where SMAC and the BLM is headed.

Cindy stated during the landowner's discussions of Wilderness, access was guaranteed and was not an issue, period. She stated that would have been a deal breaker, and maybe it didn't get represented to those in the room discussing it. She asked what Bill saw as his vision for the Mountain.

Bill said at the time of the discussions, it was agreed that reasonable access would be maintained; however, the word unfettered did not exist.

Cindy thought Bill knew those on the Mountain well enough to know that any restrictions on access would not be okay. She wondered how he envisioned them handling it.

Bill stated that most of the discussion at the time during the drafting of the Act, the conversation revolved around permittee access. There may have been other discussions focused on inholder access. However, the ones he recalls most vividly were about grazing permittees in Wilderness, and basically it was to continue as it has in past. There wasn't a lot of discussion about going into details and going to each permittee and looking at operations.

Cindy said she was speaking to Lindsey on almost a daily basis when he told her to quit calling, that access was covered.

Bill stated he couldn't speak for Lindsey. All he can say is from his perspective those who were advocating for Wilderness designation that the access issue didn't register as a primary concern for obvious reasons. They didn't own lands that were affected but they also knew reasonable access was assured under the Act and affirmed under the Steens Act itself. They didn't see it as doing anything plus or minus as respect to a person's access.

Stacy recalls a lot of discussion around wildlife, recreation permittee, and grazing permittee and what was used to ensure they were covered. In his opinion they didn't discuss private property because it was written in as reasonable access. That is one issue we did not let standing Wilderness Act reign on; that was the number one issue. We used reasonable because everyone would say a paved highway to Ankle Creek is unreasonable but continued use like they have is reasonable. The Wilderness Act doesn't say

reasonable. According to his memory, that was a deal breaker and that was why different language was used and the reference back.

Cindy stated they had been assured that access wouldn't be an issue; that it had been taken care of but is finding it is a huge issue.

Bill stated that obviously there was disagreement, whether or not the words are unfettered and adequate or unfettered and reasonable, don't think they are. He doesn't think the judge would think they are either, so somewhere in between there, reasonable people have to agree on the best course of action. When speaking with Mr. Stroemple, the goal is obviously to do what is good for the Wilderness area. Not that you can't accommodate those other activities that might be in conflict, but rather how to do that.

Hoyt felt the real issue is not the language of the Wilderness Act or the CMPA Act, but rather BLM's interpretation of what that means through current regulations.

Approve February Minutes:

Motion made and seconded to approve the minutes as corrected (Stacy moved, Jerry seconded).

No objection heard.

Consensus Decision: Approve minutes as corrected.

Chair/Vice-Chair Election:

Members discussed that a quorum would be needed to address this, so it should be postponed to the next meeting. However, members present wished to affirm their desire for Tom to continue as Chair until his departure in August.

Motion made and seconded that Tom's leadership continue until August (Alice moved, E Ron seconded).

No objection heard.

Consensus of members present: Tom Harris will continue as Chair until his departure in August.

Agenda for May Meeting:

- Purpose and vision
- Science Committee
- Updates on CMAs and projects in Steens CMPA

Members talked about how many meetings were necessary to be effective and the possible timing of them as well as the field trip scheduled for June.

At the May or June meeting, SMAC members will discuss whether or not to skip any meetings later in the year.

Karla brought up the types of updating SMAC would want on cooperative management agreements and exploring establishment of a science committee to help with the WJMA.

It was suggested maybe BLM could look at feasibility of doing an economic evaluation and the impacts of various aspects such as research. Gary will be attending a training session on economic and social impacts and how it is applied to BLM planning. It was suggested what is learned might be of interest to SMAC.

Members discussed that early on in the SMAC history the recommendation was BLM law enforcement be more of an educational approach. It was felt that perhaps now was the time to start discussing a stronger presence.

Members discussed whether or not the access issue needed to be carried forward. There was a difference of opinion. Karla stated she'd heard the various opinions and would take them into consideration.

Cindy requested an update on who is permitted for the season, new permits issued, who's gone through the process of permitting, and perhaps an overall recreation report like was given SMAC last year. Karla suggested, since SMAC has requested BLM to do a comprehensive recreation plan, it might be a good time to talk about it in June.

Weeds:

Lesley Richman and Bonnie Rasmussen gave the Council a presentation on the Harney County Weed Management Partnership identifying the different entities involved; what kinds of projects are undertaken; and how it operates. The duo described the various methods of education, treatment methods, outreach, prevention, and budget of the various endeavors.

Discussion with Bill Marlett (Continued):

Harland said there was a movement in the public environmental sector to make public land all cow free. He asked what Bill sees as the bigger picture for the environmental community regarding grazing in the CMPA 10 or 20 years from now. Harland was wondering if Bill sees cows as part of the picture if ONDA would be a cheerleader for the cow-free movement.

Bill stated that ONDA's basic position is they don't believe it is in the public's interest to run cows on public land. That is not to say grazing doesn't have its place on certain lands in the West and even on certain public lands in the West. However, as a general rule, that is ONDA's position and you will always find exception to any rule regardless of what side of the fence you are on. The negotiations occurred because they knew ONDA had successfully removed livestock from the Blitzen WSR and it was their vision to have the land basically cow free. ONDA did not waiver from what they asked for still feeling a cow-free Steens was in the best interest of the Mountain. He suggested looking at the

existing RMP to see ample evidence and that in general is not to say Karla and her staff aren't trying to address problems. Bill said to take recent examples, such as Stonehouse Allotment, where some tweaks in grazing occurred, but basically it is status quo. ONDA views this incremental management as putting on bandaids and not addressing the entire Mountain. Bill spoke of everyone being aware that there are a lot of different factors at work on and with the Mountain. The Act is in place and Congress made a decision which placed us on a path. He felt one could do their best to obstruct the process or embrace it. He believes it is SMAC's job to embrace it and move forward. The Act was the first step with many more along the road. Bill acknowledged he will continue to ask Ed Davis if he wants to retire and will continue to ask permittees if they are going to do that. He would like to see more livestock removed, but that doesn't mean we can't communicate and engage in any dialogue to try to minimize impacts grazing has.

Jerry stated he believes the negotiations were a three-pronged in that the ecological was primary, but that social and economic community concerns were a part of it as well. Within the CMPA the ecological was to be the primary purpose but the social and economic impacts are a very important part of that because one cannot be done without the other.

Bill relayed the ecological purpose of the Act was the guide post of the CMPA. It was the driving force and if something hadn't been worked out, support would have been pulled from the legislation. This is not to say the other purposes of the Act aren't important. They are. Otherwise they wouldn't be there. In the scheme of things ecological integrity of the Steens was the number one priority and everything else had to flow from it.

Jerry expressed his thoughts that the community on Steens needs to be addressed in all concerns. His belief was environmentalists did want the outfitters and ranchers to remain. However, if it gets down to an ecological need saying a reduction needs to occur, then that is what should happen and consideration given as to whether compensation or mitigation could be used.

Bill said the question of compensation if BLM had to make adjustments was never brought up. If the laws had guidelines and standards that were not being met, then those adjustments had to happen irrespective of the Act. The notion that compensation is required under the Act is foreign to him. Having said that, Bill stated they endorsed, through the Act, the compensation/payments that were made to make ranches whole. He reiterated that was the term used, economically financially whole. This process was in part to compensate for the loss of forage resources over time that certain parties had access to on Steens. ONDA did support the notion that if someone is willing to pull cows off and an agreement can be reached, then maybe compensation could occur. ONDA does support relinquishment on a voluntary basis. He stated that doesn't mean BLM doesn't have legal obligation to protect the land.

Hoyt said his view was, under the terms of the Act, BLM has an obligation to promote long-term economic viability of permittees, users on the Mountain, and the local

communities. If the environmental considerations are such that a change or reduction in AUMs is needed, the BLM has an obligation to replace those AUMs; not to provide money as compensation, but to create new AUMs or upgrade existing allotment so that the economic viability of the community and ranches is not damaged long term.

Bill agreed that there needs to be sensitivity to the economic viability of the ranching community. He doesn't see how BLM could find more AUMs and questioned where they might come from since something cannot be created out of nothing. If the Mountain is at capacity, so to speak, there isn't a whole lot of wiggle room that BLM can do to provide compensation of AUMs aside from buying hay.

Hoyt stated off stream watering could be provided rather than reduction of AUMs. He said BLM has an obligation to do what they can, given the limitation of the allotment, to protect and provide so the rancher is not damaged.

Cindy expressed confusion over the "importance" level of the different purposes. To her they are intertwined and as long as ecological integrity isn't impaired, then things can still happen.

Bill didn't like the fact the Draft RMP didn't highlight in big bold letters that the purpose of the CMPA is to protect ecological integrity of Steens Mountain since it was very central to ONDAs participation in legislation and for them not to see it highlighted in the RMP was a big disappointment. Bill stated the front page of the Act, containing its purposes was simply an index of what was to follow.

Harland stated basically the Steens Act is the first step. What has been done over the last two years is to look at private landowners and then the loop gets smaller and smaller until year 2010 when it's the end of public grazing. This prolongs a slow death a bit longer than a National Monument with it being only a little more humane by offering buyout provisions.

Ron identified his concern that when the Act was being drafted, more consideration was given to, for example, livestock end of things rather than the recreation permit use.

Bill stated in his personal view less use is good, but thinks ONDA, from an organizational standpoint, would recognize and support economic contribution that brings to a county as a plus. Does that mean we like seeing the East Steens road being paved, probably not. That was the County's decision to draw in more tourists and recreation. There is clearly a balance between what is a good level of recreation use that BLM can monitor and handle and won't have negative impacts across the board. There is a lot more room on Steens to have recreation than what exists today without having major impacts like those seen in Yellowstone.

Jerry focused on what Bill said about the front page is just an index to the rest of the Act. He said so far most of the discussion was focused on CMPA Title I and its purpose and objectives. Many issues have to do with Title II which is specific to wilderness and thus

different than the rest of the Act. There are rules and regulations that BLM has to follow in wilderness that cover issues other than ecological impacts.

Cindy identified one of her permit stipulations as being removal of their camp after every trip. She said if they have three trips, then removing the camp requires two more trips in and out with pack animals. They also have to use nylon tents rather than traditional tents. One of the issues is wilderness regulations can reserve that campsite all summer long. That is one example of a stipulation that is really not based on ecological impacts. What she is saying is, she can't turn BLM loose to make decisions. She is concerned about ecological impacts and doesn't want more impacts. She wants BLM to rationalize their decisions, and she doesn't see it. She wants BLM to show why any impacts would occur, but doesn't see that in current documents.

Meeting adjourned.

Submitted by Liz Appelman

Minutes approved as amended on Tuesday, September 14, 2004.

Tom Harris, Chair

Date