

January 19, 2007

Karla Bird
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Hines, OR 97738

Also sent via e-mail to: karla_bird@blm.gov

RE: Scoping Comments for the Travel Management Plan and Environmental Assessment for BLM-administered land within the Steens Mountain Cooperative Management and Protection Area

Dear Ms. Bird:

The Wilderness Society submits the following scoping comments for your consideration as BLM develops a Travel Management Plan for the public land managed by BLM located within the Steens Mountain Cooperative Management and Protection Area (CMPA). These comments are provided on behalf of our 200,000 members, of which 4,000 are Oregon residents.

Steens Mountain is one of the crown jewels of the public lands managed by the Bureau of Land Management (BLM). The enactment of the Steens Mountain Cooperative Management and Protection Act in October 2000 was the result of a broad consensus from local, regional and national interests desiring to protect ecological integrity and natural character of Steens Mountain (Steens Act). The purpose of the Steens Act, as written in the legislation, is “to conserve, protect and manage the long-term ecological integrity of the Steens Mountain for future and present generations.” BLM includes Steens Mountain in its National Landscape Conservation System, which was established to protect the landscapes with high conservation values among the lands that BLM manages for the American people. Both Congressional and BLM management direction is for BLM to provide the strongest conservation protections for Steens so that both current and future generations can enjoy and experience Steens Mountain and the spectacular resources found in that landscape.

The Wilderness Society appreciates the challenge of producing a quality transportation plan that is conservation oriented, enables public visitation and also allows for reasonable access for private property owners with inholdings in the CMPA. We want to work with you to develop such a plan and offer the following suggestions and recommendations below.

General recommendations for conducting travel management planning:

1. Landscape level planning

Travel planning requires the agency to manage human travel across the landscape. The land use planning process, which addresses the broader landscape within a planning area, provides one of the best opportunities to make travel planning decisions in the appropriate context. While we understand that BLM does not have authority to close or relocate highways, major roads, or county roads, BLM

must include these routes when analyzing the transportation network as they have a great impact on habitat fragmentation and reduction in core area size. The placement and design of travel routes defines which areas will remain or become roadless, and which areas will be disturbed and how. In other words, route decisions determine the fragmentation of the landscape, and thus, how naturally or unnaturally a landscape will behave in terms of water flow and quality, wildlife migration and species composition and function.

NEPA requires federal agencies to assess the direct, indirect and cumulative environmental impacts of proposed actions, take a “hard look” at environmental consequences and perform an analysis commensurate with the scale of the action at issue. 42 U.S.C. § 4321 et seq; 40 C.F.R. § 1508.8.¹ Travel planning affects the entire landscape and can only be thoroughly and properly assessed by considering potential impacts and making decisions at a comparable level. In terms of how to evaluate the potential impacts of travel management decisions, NEPA’s definition of “cumulative impact” is instructive:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. (emphasis added). BLM must account for the direct, indirect and cumulative impacts of all roads in the CMPA planning area when completing a comprehensive travel management plan.

Recommendation: BLM should address travel management on a landscape-wide basis by addressing the impacts of all roads in the planning area and accounting for the landscape-wide impacts of these roads.

2. Habitat fragmentation

The BLM should assess the potential habitat fragmentation from each alternative and select an alternative that best protects the long-term ecological integrity of Steens Mountain.

As mentioned, BLM must address travel management on a landscape level to ensure that BLM meets its responsibility as stewards of the public land and mitigates against habitat fragmentation. Further, the purpose of the Steens Mountain Cooperative Management and Protection Act is to “conserve, protect, and manage the long-term ecological integrity of Steens Mountain for future and present generations.” 16 U.S.C. § 460nnn-12(a). The legislation also provides that the BLM “shall manage” the area “to ensure the *conservation, protection, and improved management of the ecological*, social, and economic environment of the Cooperative Management and Protection Area, including geological, biological, *wildlife*, riparian, and scenic resources.” 16 U.S.C. § 460nnn-12(b) (emphasis added). The Act’s definition of “ecological integrity” (16 U.S.C. § 460nnn(5)) is also instructive:

¹ See also Metcalfe v. Daley, 214 F.3d 1135, 1151 (9th Cir. 2000); Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989).

The term “ecological integrity” means a landscape where ecological processes are functioning to maintain the structure, composition, activity, and resilience of the landscape over time, including—

- (A) a complex of plant communities, habitats and conditions representative of variable and sustainable successional conditions; and
- (B) the maintenance of biological diversity, soil fertility, and genetic interchange.

In creating a travel management plan while complying with its obligations to not only protect but also improve the ecological integrity of the Steens Mountain area, the BLM must thoroughly consider the potential environmental consequences of the alternatives on wildlife habitat, as well as on the other values identified in the Act. Such an analysis is also consistent with the National Environmental Policy Act’s requirements to assess direct, indirect and cumulative impacts of management decisions and to do so using high quality data and sound science. 40 C.F.R. § 1508.8; 40 C.F.R. § 1500.1(b).² BLM should quantify the habitat fragmentation associated with each alternative and select the alternative which improves the ecological integrity of this area by reducing fragmentation and providing for restoration of habitat.

We have included The Wilderness Society’s Science and Policy Brief, “**Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands**” (also available on-line at: <http://www.wilderness.org/Library/Documents/upload/TravelBriefFinal.pdf>).

We also refer BLM to the following reports on this issue prepared by The Wilderness Society:

- 1) **Fragmenting our Lands: The Ecological Footprint from Oil and Gas Development** - <http://www.wilderness.org/Library/Documents/upload/Energy-Footprint-Full-Report.pdf>
- 2) **Ecological Effects of a Transportation Network on Wildlife** - <http://www.wilderness.org/Library/Documents/upload/Missouri-Breaks-Transportation-Effects-full-report-w-o-covers.pdf>
- 3) **Protecting Northern Arizona's National Monuments: The Challenges of Transportation Management** - <http://www.wilderness.org/Library/Documents/AZStripTransportation.cfm>
- 4) **Wildlife at a Crossroads: Energy Development in Western Wyoming**. - <http://www.wilderness.org/Library/Documents/pinedale.cfm>
- 5) **Addressing the Ecological Effects of Off-Road Vehicles** - http://www.wilderness.org/Library/Documents/upload/ScienceBrief_ORVEffects_August2006.pdf

Please let us know if you have difficulty accessing the above referenced reports or if you would like us to send paper copies to you.

In addition to summarizing the reports listed above, “Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands” provides a summary of available scholarly and government reports and studies on the impact of habitat fragmentation on wildlife, provides methods for calculating habitat fragmentation, and provides recommendations on how to integrate fragmentation analysis into travel management.

² See also Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989)

Also, as noted in the attached Science and Policy Brief, other BLM field offices are utilizing fragmentation analysis to assess alternatives and guide management. Habitat fragmentation and its effects on wildlife were also measured in the RMP for the *Kasha-Katuwe National Monument*. As in the Steens Mountain area, travel management was identified as one of the key issues to address in the RMP. The alternative that most reduced habitat fragmentation was chosen as the preferred alternative, the one most consistent with the Proclamation establishing the National Monument. *See, e.g.*, Kasha-Katuwe Proposed RMP/FEIS, Executive Summary and Table 2-9 (available on-line at: http://www.nm.blm.gov/aufo/kktr_plan/kktr_plan.htm).

The Draft Resource Management Plan/Environmental Impact Statement released by the BLM's *Vernal, Utah Field Office* in January, 2005 included extensive measurement of potential habitat fragmentation using a range of effect zones and specific impacts to be expected for different affected species. *See, e.g.*, Vernal DEIS, Appendix I and Section 3.19.2, available on-line at: http://www.blm.gov/rmp/ut/vernal/DEIS_Outline.htm. The recently released Draft RMP for the *Yuma, AZ Field Office* also measured road density resulting from different alternatives. *See, e.g.*, Yuma Draft RMP, Table 2-32 (available on-line at: <http://www.blm.gov/az/LUP/yuma/drmp.htm>).

The travel planning criteria set out in the Record of Decision for the *Dillon (MT) RMP* (relevant sections **attached** and also available on-line at: <http://www.mt.blm.gov/dfo/rod/contents.htm>) is an example of criteria that incorporate key aspects of BLM's ORV regulations as well as ecological metrics. While this field office did not complete a comprehensive travel management plan as part of its RMP revision, it included road density targets and included an appendix outlining the principles it will use when completing a comprehensive travel management plan during implementation.

Recommendations: BLM should use the information provided to measure habitat fragmentation, conduct a thorough fragmentation analysis, and inform decisions regarding road closure and other limitations on use in the Steens Travel Management Plan. The preferred alternative should best achieve not only protection but also improvement of the ecological integrity of these lands, including measurements of decreased habitat fragmentation and increased restoration.

3. Principles of travel management

When completing a comprehensive travel management plan, it is vital to complete it in a systematic and transparent manner.

Key principles of travel planning

- (1) Travel management is part of land use planning and should address both recreation and transportation needs from a landscape perspective.
- (2) Prior to conducting an inventory or designation of routes, BLM should assess the present resources, requirements for protection, and which uses for recreation and development are compatible with these resources, requirements and other users.
- (3) BLM should use a legal definition of "road" when designating routes, which is especially important in light of the Steens Act's mandate that the use of motorized or mechanized vehicles "is prohibited off road." 16 U.S.C. § 460nnn-22(b).

- (4) BLM's consideration of ORV use should take into account its potential damage to resources and other uses, including exclusion of other users.
- (5) Where BLM presents a baseline travel system, it must present route maps in a responsible manner that does not legitimize illegally-created routes.
- (6) BLM should include a detailed closure and restoration schedule in the plan.
- (7) BLM should include and implement a monitoring plan.
- (8) BLM should include and implement education and outreach in the plan.

Recommendations: BLM should follow the eight travel planning principles detailed above to ensure that only routes which truly serve a valid purpose as allowed by the Steens Act remain open.

Concerns and Recommendations Regarding the Current Direction of the Proposed Transportation Plan

1. *Clarification needed for routes accessing private inholdings:* The scoping notice states the "TMP will not address motorized travel associated with access to private land inholdings with the Steens Mountain Wilderness." Yet the maps provided with the scoping notice very clearly indicate routes accessing private inholdings. The EA will have to clearly explain the intent of the TMP and why documents are displaying particular routes. If routes are not needed to provide access to private inholdings then the documents and maps should clearly provide that information and ensure that these routes are also considered for closure as appropriate.

2. *No indication that the BLM will use available, high quality science or scientific methodologies in developing the TMP:* The scoping notice does not provide any indication that a credible methodology will be used to evaluate, compare, and select alternatives for the TMP. Further, the scoping document does not indicate that the BLM will be using available science to fully assess the ecological effects of the alternatives.

As a starting point, we are providing The Wilderness Society's Science and Policy Brief, "**Addressing the Ecological Effects of Off-Road Vehicles**" (enclosed and available on our website at:

http://www.wilderness.org/Library/Documents/upload/ScienceBrief_ORVEffects_August2006.pdf).

This report summarizes literature regarding the ecological effects of off-road vehicles and also addresses the importance of considering ecological effects when developing science-based plans and before making management decisions. The BLM should use the information in this document and other similar scientific data to assess the environmental consequences of the proposed travel plan. Also, there are several methodologies available that would provide BLM managers with useful information to help them with their evaluation and analysis. We have discussed these in the prior section, but if BLM would like to meet with staff from The Wilderness Society to better understand the methodologies available, we would gladly personally brief the BLM on this information.

3. *Obscure routes should not be considered for official designation and should be closed in all alternatives:* As stated in the Scoping Notice, Obscure Routes are hard to locate on the ground. The Steens Act requires the BLM to manage the Steens Mountain area to protect and improve its ecological environment and prohibits the use of motorized and mechanized vehicles off road. Considering opening to motorized traffic routes that are currently not even locatable clearly contravenes the

mandates of the Act, since it would add to habitat fragmentation and other ecological damage. Further, Obscure Routes do not meet accepted definitions of a “road.” The legal definition of road for the BLM public lands is derived from the definition of “roadless” in the legislative history of FLPMA:

The word “roadless” refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road. (H.R. Rep. No. 94-1163 at 17 (1976)).

In addition, the Code of Federal Regulations (43 C.F.R. § 19.2(e)) establishes the following definition:

An improved road that is suitable for public travel by means of four wheeled, motorized vehicles intended primarily for highway use.

Thus, tracks created by the repeated passage of vehicles, people, wildlife, or anything else, standing alone, do not constitute a road. Mechanical improvement, whether by hand tools or power machinery, is necessary. In other words, “use” or “nonuse” of a given route is inadequate information to determine what is or is not a “road.” Single track trails or other trails also do not meet the definition of a road.

Another definition of “road” is available in guidance developed by the Arizona BLM in IM No. AZ-2004-021:

Road: as used herein (a linear route), a transportation facility used primarily by vehicles having four or more wheels, documented as such by the owner, and maintained for regular and continuous use.

Under any definition, the Obscure Routes are not roads and, consequently, use of these routes by motorized vehicles would constitute use “off road” in violation of the Steens Act. Further, since many of these routes are in Wilderness Study Areas, closure of these routes to motorized use would be consistent with the BLM’s legal obligations to prevent impairment of their wilderness characteristics – which would surely be damaged by use of routes that are currently so little-used that they cannot be located. Therefore, a common element to all alternatives should be that these routes are permanently closed, decommissioned, and rehabilitated.

4. *No new ATV routes should be created:* The routes under consideration for conversion to ATV routes are, per the BLM’s scoping notice, “no longer safe for full-size vehicles.” As discussed above, the BLM cannot permit their use by motorized or mechanized vehicles and, by the agency’s own admission, these routes no longer qualify as “roads.” Further, since many of these routes are in designated Wilderness, their closure is consistent with management of these areas and the creation of new, motorized routes is impermissible. The routes at issue should be closed.

5. *Maps provided to the public showing access in the CMPA should not show routes that are open to permit routes or private property access routes:* In assessing road density and making determinations regarding the impacts of road networks, it is important that the BLM consider the impact of all roads, including those that are limited to use for permittees or private property owners. However, maps and other materials that are prepared to inform the public about available roads in the CMPA should not show those roads that are not open to public access as “open” in any manner. Otherwise, either by confusion or design, non-permitted users could make use of roads that are maintained only for limited purposes.

6. *Permits should be narrowly tailored to necessary uses, include a requirement for monitoring and reporting of impacts on the landscape, and be subject to modification or revocation based on the BLM's determination:* While we understand the need to provide access for livestock operators, we also encourage the BLM to fulfill the purposes of the Steens Act in issuing and administering permits. In order to ensure the ecological health of these lands, the BLM should ensure that permits are issued only as truly needed and for as limited use as is feasible to achieve those needs. Further, in order to be certain that the permitting uses are not causing undue damage to this landscape, each permit should require regular monitoring and reporting of (including photographs) of the condition of the land and provide for the BLM to require modifications or even to revoke the permit altogether if needed to protect the natural resources of Steens Mountain.

7. *The alternatives do not appear to be based in science:* The Scoping Notice presents three Alternatives but does not discuss the rationale behind each alternative. The Alternatives in the TMP should all be scientifically credible and the BLM should provide a thorough discussion and detail the basis by which each alternative was developed. The discussion should provide an understanding of how the alternative will “conserve, protect and manage the long-term ecological integrity of the Steens Mountain for future and present generations.”

8. Each and every alternative must comply with the purposes and management requirements set out in the Steens Act: As an overall comment, and as noted in many of our comments above, the BLM's management of this area, including this travel plan must first and foremost carry out the purposes and direction of the Steens Act. Consequently, all alternatives must be developed with a priority of protecting and enhancing the ecological integrity of the lands and must not permit public use of motorized or mechanized vehicles off road.

Thank you for considering these comments. We look forward to working with you as you develop the draft TMP Plan and Environmental Assessment.

Sincerely,

Robert M. Freimark
Senior Policy Analyst