

Ramblings

DESERT RAMBLINGS

THE NEWSLETTER OF THE OREGON NATURAL DESERT ASSOCIATION

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FROM THE OUTBACK

Three steps forward, three steps back

By Bill Marlett

The recent retirement of Secretary Gale Norton signals the end of a rough ride on public lands. Reflecting on her five years at the helm of the Department of Interior, one can't feel humbled at the damage inflicted to our conservation heritage, the absence of public participation, and even the decline of morale within her department agencies, including the Bureau of Land Management, Park Service, Fish and Wildlife Service.

History will not be kind to Ms. Norton, and while pleasantries can be highlighted, her overarching legacy has been one of collaboration with those who benefit most from extraction and development of our natural heritage.

Hardly incompetent, and in keeping with her mentor, former Secretary James Watt, (who once told the Senate, "I don't think that there is any point in protecting the public lands because we don't know how long the world is going to last before the Lord returns,") she was elegant in making life easiest for those who helped themselves.

see **OUTBACK** page 11

ANNUAL MEETING PULLING FENCES



PHOTO: BEN MOON

ONDA board member John Sterling and daughter Lily help remove obsolete barbed-wire fence from the Pine Creek Conservation Area during ONDA's annual meeting, March 24–26. For more about the annual meeting, see Page 4.

STEENS ACT EFFECTS

Assessing the Steens Act five years later

By Andy Kerr

In the fall of 2000, Congress enacted the "Steens Mountain Cooperative Management and Protection Act" ("Steens Act"). Key "protection" afforded by the Act included a roughly 500,000 acre special management area, including:

- 175,000-acres of Wilderness (100,000 acres "cow-free");
- 29 additional miles in the National Wild and Scenic Rivers System;
- 1.2 million-acre mineral withdrawal.

A number of land exchanges resulted in net loss of nearly 86,000 acres of public lands. Nonetheless, the resulting configuration, habitat and scenic quality of the land was a strong net gain for conservation, the public and the taxpayer. For example, after the legislation passed the total acreage of the wilderness resource (designated Wilderness and remaining Wilderness Study Areas) increased almost 34,000 acres.

Unfortunately for those who sought "cooperation" more than "protection," the bill's requirements for protection were

see **STEENS** page 8

IN THIS ISSUE

- Participate in an ONDA wilderness restoration trip this summer and give something back to wildlife while experiencing Eastern Oregon's remote desert areas, see Page 3.
- ONDA establishes the Oregon Natural Desert Association Endowment Fund to enhance the organization's overall financial longevity, see Page 5.



By Durlin Hickok, President
Transitions

First, I am honored to be elected as the incoming board president of ONDA and committed to continuing the leadership tradition so well demonstrated by Craig Miller and Lee Christie. A second transition of note is the resignation of the Secretary of the Interior, Gail Norton. In looking back, our Desert Ramblings Winter/Spring 2001 portended "Norton confirmation casts shadow". In retrospect, none of us would have believed how true this statement would be. President Bush has chosen Idaho Governor Dirk Kempthorne to replace Gail Norton. Although yet to be approved by Congress, his confirmation is likely. If Kempthorne stays true to his prior policies, we can expect that he will likely continue the current administration's favoritism to timber, mining and energy industries – all the more reason to support ONDA's mission of protecting and restoring Oregon's desert ecosystems.



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**ONDA exists
to protect, defend, and restore forever
the health of Oregon's native deserts.**

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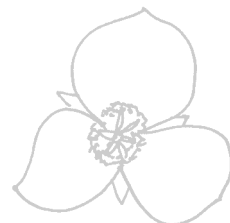
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go wild

this summer. Join the Oregon Natural Desert Association in the high desert to help restore and protect desert wilderness by participating as a volunteer on an ONDA project.



After a day of removing fences that impede wildlife in the Steens, a team of ONDA volunteers take a break for a picture.

Experience Eastern Oregon's remote desert areas while giving something back to native wildlife. This spring through fall, ONDA is leading restoration trips in the Steens Mountain Wilderness, Hart Mountain Antelope Refuge, Pine Creek Conservation Area and the Badlands Wilderness Study Area. The purpose of each trip is to remove obsolete barbed wire fence to allow for wildlife migration. The trips will involve coiling barbed wire fence, removing fence posts, hiking and closing undesignated roads and trails. We will be camping in primitive campsites for the multi-day Steens trips. ONDA provides tools and training. Please note that the trip dates do not include travel time; work begins on the first day of the trip. To reserve a space, call ONDA at 541.330.2638. Space is limited. **Sign up now and join the fun!**

ONDA volunteer trips, summer 2006

June 8-11 Floating Fence Pull, John Day River and Pine Creek Conservation Area
June 16-18 Steens Mountain Wilderness Fence Pull, Upper Blitzen River
July 7-9 Steens Mountain Wilderness Fence Pull, Upper Blitzen River
July 23 Road Closure, Badlands Wilderness Study Area
July 28-31 Steens Mountain Wilderness Fence Pull, Upper Blitzen River

Aug. 6 Road Closure, Badlands Wilderness Study Area
Aug. 10-12 Steens Mountain Wilderness Fence Pull, Ankle Creek
Aug. 24-27 Hart Mountain National Antelope Refuge Fence Pull
Sept. 8-10 Steens Mountain Wilderness Fence Pull, Lower Wildhorse Canyon
Sept. 14-16 Steens Mountain Wilderness Fence Pull, Lower Wildhorse Canyon

Interested? Call Erin at 541.330.2638 for more information.



Thanks to the generosity of Patagonia, Inc., one volunteer on each ONDA trip will receive a Patagonia® shoulder bag.



Some of ONDA's 63 annual meeting volunteers gather for a group photo while removing barbed wire fence from Pine Creek Conservation Area.

PHOTO: BEN MOON

ONDA kicks off fence-pulling season with 16th annual meeting

by Erin Barnholdt

I can't think of a better way to kick-off ONDA's fence pulling season than with 63 volunteers removing three miles of fence in one day at Pine Creek Conservation Area. Lest I neglect to mention, it was snowing, sleeting and raining. The group was unstoppable. I extend a heartfelt thank you to those hardy souls who managed to keep a smile on their faces while pulling fence with soaking wet gloves, mud-caked boots and saturated rainpants. I am inspired and more excited than ever to start this field season.

A day of restoration work has been part of ONDA's annual meeting for the last several years. We view it as a great opportunity for our members to connect with the desert and better understand the issues we are working on. To bring in a little more history of the area, we were honored to have Jim Hammett, superintendent of the John Day Fossil Beds National Park, and Ellen Morris Bishop, author of "In Search of Ancient Oregon; A Geological and Natural History" and director of the new Paleo Lands Institute, as our guest speakers Saturday night. The Paleo Institute is just getting under way and will be offering a wide variety of classes this year. To learn more about the institute, check out their website at www.opli.org.

I would also like to extend a special thanks to Richard and his family from the Confederated Tribes of the Warm Springs. They generously donated roughly 50 pounds of salmon and cooked it over an open fire to thank us for removing barbed wire fence on their conservation area.

On the second day of our annual meeting, we were rewarded for our hard work with a day of sunshine as we explored Spring Basin and the John Day Fossil Beds nearby.

Thanks to everyone that helped to make ONDA's Annual Meeting a huge success. ONDA is extremely fortunate to have such dedicated members and volunteers.



PHOTOS: ERIN BARNHOLDT

Volunteers enjoy a Sunday morning hike in Spring Basin WSA, led by ONDA's John Day River Coordinator, Tracy Bowerman.

ONDA plans for future – Oregon Natural Desert Association Endowment fund

Through the Oregon Natural Desert Association Endowment Fund, ONDA is planning for the future of Oregon's native deserts and the health of our organization.

ONDA is pleased to announce the establishment of the Oregon Natural Desert Association Endowment Fund, a permanent endowment fund to enhance our overall financial longevity. ONDA established this fund through the Oregon Community Foundation, an Oregon-based organization that administers permanent charitable funds. The creation of this fund is exciting because it will help us improve our financial security and provide an additional stream of income for our work. It will also increase our ability to accomplish our mission and is a major step towards meeting our future goals.

Our new endowment fund helps ONDA donors invest in the future. Donors can memorialize their gifts to ONDA by giving to the Oregon Natural Desert Association Endowment Fund through a bequest, a trust, or with the use of securities, life insurance, or any other type of enduring gift. In addition to providing a lasting impact, gifts made through the endowment fund have several tax benefits.

For example, if Desert Donor holds shares of Sagebrush stock that he purchased 25 years ago for \$1,000, the stock is now valued at \$100,000. If Desert Donor sold the stock now he would have to pay capital gains on \$99,000 of his income, a significant tax payment. Desert Donor has been a member of ONDA since 1990 and wants to give something that will endure for Oregon's deserts. With the close help of his personnel financial advisor, Desert Donor transfers the Sagebrush stock to the Oregon Natural Desert Association Endowment Fund. With this transfer he receives a charitable income tax deduction of the full market value of the stock on the date of the transfer (up to 30% of his adjusted gross income) and the satisfaction of knowing his gift will make a lasting difference for the future.

Establishing the fund was just the beginning for ONDA, now we need the help of our dedicated supporters to build the financial capacity of the fund for the long-term. Please contact Kelly O'Brien – kobrien@onda.org or 541.330.2638 – if you are interested in giving to the Oregon Natural Desert Association Endowment Fund or would like more information. If you make a gift to our endowment fund, your gift will be used where the need is the greatest in our efforts to protect Oregon's native deserts.

Steens Mountain Wilderness Area stream protected

By Karen Russell of WaterWatch of Oregon

After three years of legal wrangling before the Oregon Water Resources Department, minimum flows in two Steens Mountain Wilderness Area streams have been protected! The protections – in the form of water rights that protect flow levels in Home and Threemile Creeks – protect and preserve stream flow needed to preserve the recreational, scenic and aesthetic use of the wilderness area. These flow protections also preserve flows needed to maintain native populations of several fish species including the Catlow redband trout.

Designation of the Steens Mountain Wilderness Area in 2000 was intended, in part, to protect water in the rivers and streams that flow through the new wilderness area. While early drafts of the wilderness legislation provided for a federally reserved water right to achieve this goal, this provision was removed from the act after agreement was reached to secure state instream water rights needed to protect Home and Threemile Creeks.

After Steens Mountain was designated as wilderness, the Oregon Department of Parks applied for instream water rights on Home and Threemile Creeks to protect flows for values consistent with the wilderness area. Unfortunately a local rancher opposed these applications because he wanted to build reservoirs high in the Home Creek system for flood irrigation in the Catlow Valley. These developments threatened not only the scenic, recreational and fishery values within the Steens Wilderness Area, but would also flood wetland meadows that provide important habitat for several species of birds and wildlife upstream from the wilderness.

ONDA, together with WaterWatch of Oregon and Oregon Trout and represented by Stephanie Parent of the Pacific Environmental Advocacy Center, stepped into the dispute to support establishment of instream water rights at levels needed to protect wilderness values and oppose the ranchers harmful development plans. After more than a year of negotiations a settlement agreement was signed that allows the instream rights to be established. This is a victory for Home and Threemile Creeks and the people of Oregon who love and enjoy this wilderness area in Oregon's southeastern high desert.

Protect the Earth through public speaking

So many issues, so little time. It is not always easy to find the best way have our message heard and we're grateful that you have answered the call. For a number of years ONDA has been able to reach a broader audience through our membership in Earth Share of Oregon. And we could use your help this year.

Earth Share of Oregon is a nonprofit organization that collaborates with businesses and public agencies to enable their employees to support 68 environmental groups through workplace giving campaigns. Last year, over 4,000 Oregonians supported Earth Share through giving campaigns.

In order to get the word out to their employees about the giving options available, many workplaces invite Earth Share members to give brief presentations about their projects. If you have a passion for ONDA's work, a small amount of time to volunteer to make a 5-10 minute presentation, and a willingness to overcome stage fright about public speaking, let us know! We'd love to have you represent us as only you can do it as a generous and committed supporter.

If you'd like to learn more about Earth Share and about their business partners in your area, you can visit the Earth Share website at www.earthshare-oregon.org. To join the team of speakers for the 2006 Fall Charitable Giving Campaign, please contact Meghan Humphreys: 503.223.9015 or meghan@earthshare-oregon.org.

To learn more about ONDA's partnership with Earth Share, contact Pete Hickok at 541.330.2638 or phickok@onda.org.



a member of Earth Share
OF OREGON



Long overdue: Wilderness protection for SPRING BASIN

Spring Basin Wilderness Study Area, blooming with loco weed.

"Spring Basin should be protected wilderness by now. The only reason it isn't is that [Interior Secretary Gail] Norton, the Bush administration, and the Republican majority in Congress have shown little or no interest in conservation, even when everyone who knows the land in question agrees it should be protected.

Congressman Greg Walden, R-Ore., once drafted a bill that would have designated Spring Basin as wilderness, but he never introduced it. Walden is now engaged in a plan to protect parts of Mount Hood and surrounding forests. New desert wilderness, both at Spring Basin and the Badlands near Bend, seems no longer a priority for Walden, or anyone else in the federal government."

— The Oregonian,
March 16, 2006

By Tracy Bowerman

Tucked away in the sprawling landscape of the John Day Basin, lies Spring Basin, a Wilderness Study Area just southeast of Clarno that ONDA is working to protect with wilderness designation. Spring Basin's hills rise sharply from the Wild and Scenic John Day River, with bands of rock that hold ancient fossils and Native American pictographs. The area offers up an impressive display of spring wildflowers including purple sage, shoot-

ing star, brilliant pink Pediocactus, and transparent milkvetch, listed as threatened under the Endangered Species Act. The area is also habitat for mule deer, elk, coyote, and many bird species, including nesting bald eagles and red-tailed hawks.

Spring Basin is bordered on two sides by Pine Creek Conservation Area, owned and managed for wildlife by the Confederated Tribes of Warm Springs, who support wilderness designation. Spring Basin's nearly 9,000 acres, when combined with the 34,000 acres of Pine Creek, create a large tract of critical wildlife habitat. Local landowners also support the wilderness proposal, due in part to proposed BLM land exchanges that ONDA helped negotiate. These proposed land exchanges will allow better public access to Spring Basin, as well improve public river access. The Wheeler County Court has also endorsed the proposal, making it the first county in Eastern Oregon to endorse a wilderness proposal.

Despite widespread support for Spring Basin Wilderness, Representative Greg Walden has continually come up with excuses to not introduce wilderness legislation to Congress. As Mt. Hood wilderness makes Oregon headlines, we urge you to remind Representative Walden not to overlook this small but deserving desert wilderness. Please write Walden, as well as

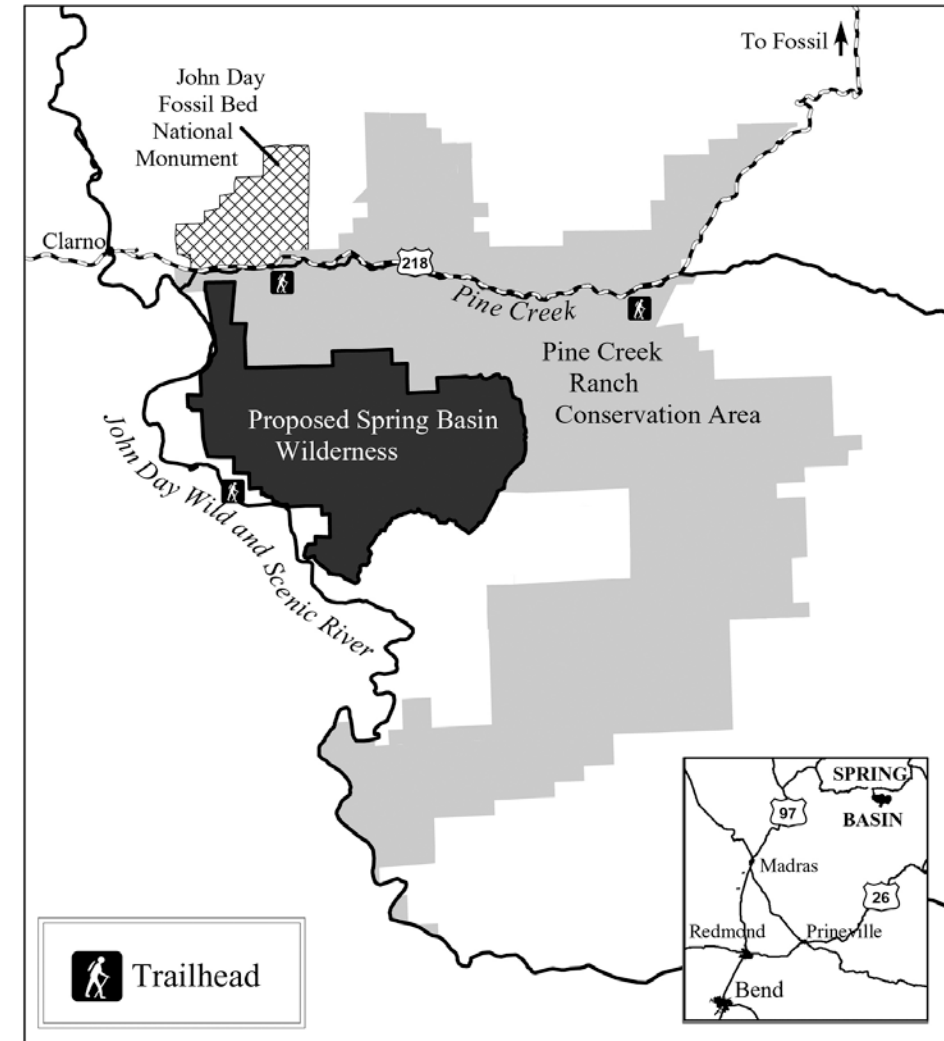


PHOTO: © BRUCE JACKSON

Proposed Spring Basin Wilderness, including land exchanges.

MAP BY CRAIG MILLER

Senators Wyden and Smith, to ask them to designate Spring Basin as Wilderness. Address letters (including your name and address) to:

Rep. Greg Walden
1210 Longworth House Office Building
Washington, DC 20515
www.house.gov/walden
202-225-6730, fax: 202-225-5774

Sen. Ron Wyden
239 Dirksen Senate Office Building
Washington, DC 20510
www.wyden.senate.gov
202-224-5244

Sen. Gordon Smith
404 Russell Senate Office Building
Washington, DC 20510
www.gsmmth.senate.gov
202-224-3753, fax: 202-228-3997

Stay posted as ONDA updates Spring Basin web pages and works on a hiker's map of the area:

www.onda.org/springbasin



Pediacactus

PHOTO: ONDA FILE

STEENS from page 1

built in and up-front, while its intent for cooperation was not firmly established in statute. It is far easier to prescribe protection than coerce cooperation by statute.

Implementation

The Steens Act resulted in tangible conservation protection (that which was specifically legislated by Congress) and nominal conservation protection with the development of the comprehensive management plan specified by the statute. However, for some in the conservation community, the plan itself fell short of expectations and is being litigated in federal court. As for the goal of the Act to foster cooperation, such has not occurred. There is no more communication today between conservationists and ranchers than prior to the Act, and a general ambivalence, if not disdain, towards the BLM by some stakeholders. While there have been individual acts of cooperation between BLM and some players, a general feeling of mistrust prevails.

There are several major (and still festering) issues resulting from the Act:

- Access to Private Inholdings. There remain significant amounts of private inholdings in the Steens management area. As this was a contentious issue in the development of the legislation, there was a tendency to avoid specifics in statutory language, so as to gloss over differences and leave the matters for implementation by BLM – and more importantly, appropriations by Congress. It was hoped that conversion of private inholdings to public lands would alleviate most access problems.

- Public Acquisition of Private Inholdings and Interests. Though the Act resulted in major exchanges of public and private land to result in a more manageable situation to both the government and large land and livestock owners, there are still many private

inholdings in the Steens Mountain Wilderness. The Act authorized \$25 million for “acquisition of land and interests in land ... and to enter into non-development easements and conservation easements.” No money has been appropriated, resulting in private inholders not being bought out nor other landowners being bought in. The failure to appropriate lies primarily with the Oregon congressional delegation, as well as a new administration hostile to conservation in general, more public lands and other spending priorities.

- Conservation of Private Lands. The Steens Act authorized BLM to enter into cooperative management agreements with private landowners that could include both federal and non-federal land. Further, non-development (no further development) or conservation (proactive conservation measures) easements were authorized. None has been funded.

- Grazing Permittee Activities in Wilderness. For that portion of the Steens Mountain Wilderness that was not legislated to be livestock-free, Congress specified traditional direction (the so-called “Congressional Grazing Guidelines”) that existing livestock grazing would not be significantly affected by Wilderness designation. The guidelines firmly grandfathered existing grazing in Wilderness and specified that it may continue essentially as it has. BLM has sought

ABOUT THE AUTHOR

Andy Kerr (andykerr@andykerr.net) is with The Larch Company (www.andykerr.net) and represented The Wilderness Society as part of the conservation coalition that lobbied for the Steens Mountain Cooperative Management and Protection Act. This article is excerpted from a report he did at the request of the Western Governors Association.

Frenchglen

Steens Act

to implement this provision by specifying precisely what grazing permittees can and cannot do and when and where. Grazing permittees chafe under these restrictions.

- Western Juniper Management. One of the creative solutions to come out of the marathon negotiations was the establishment of a “Wildlands Juniper Management Area” to educate the public on western juniper management issues. Western juniper, a native species, is rapidly encroaching into the sagebrush steppe. Conservationists and ranchers agree that it is due to a lack of fire in the ecosystem, while ranchers generally reject the contention of conservationists (and scientists) as to the role that historic and current livestock grazing plays. The WJMA has never been implemented due to a lack of consensus on how to proceed.

- Wilderness Study Areas. No agreement could be reached regarding a large amount of Wilderness Study Area within the management area. They remain in “limbo” (not the worse thing for conservationists) until Congress acts. After enactment of any site-specific public lands legislation, there is a period of time during which there is no interest in a congressional delegation in revisiting the issue or the landscape.

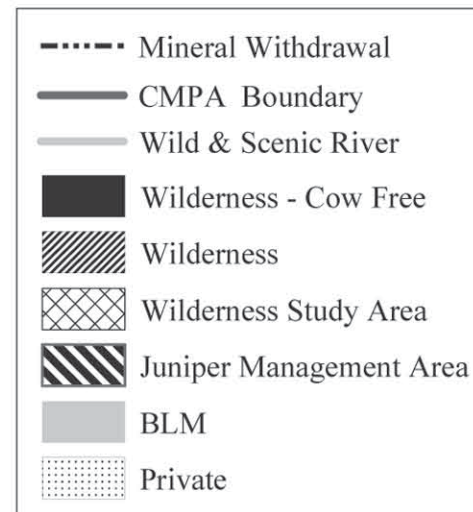
Conclusion

To those who feared a Clintonian national monument, the legislation was a success. To those who sought protection of Steens Mountain, the legislation was a success, although conservationists desired far more protection than was achieved. To those that sought to implement cooperation between the BLM and various “stakeholder” interests, the legislation is a disappointment. Cooperative management – defined in this context as giving the citizen advisory committee and local interests more control in management direction – has not taken off as envisioned by its proponents (primarily Harney County, Rep. Walden, and the ranchers).

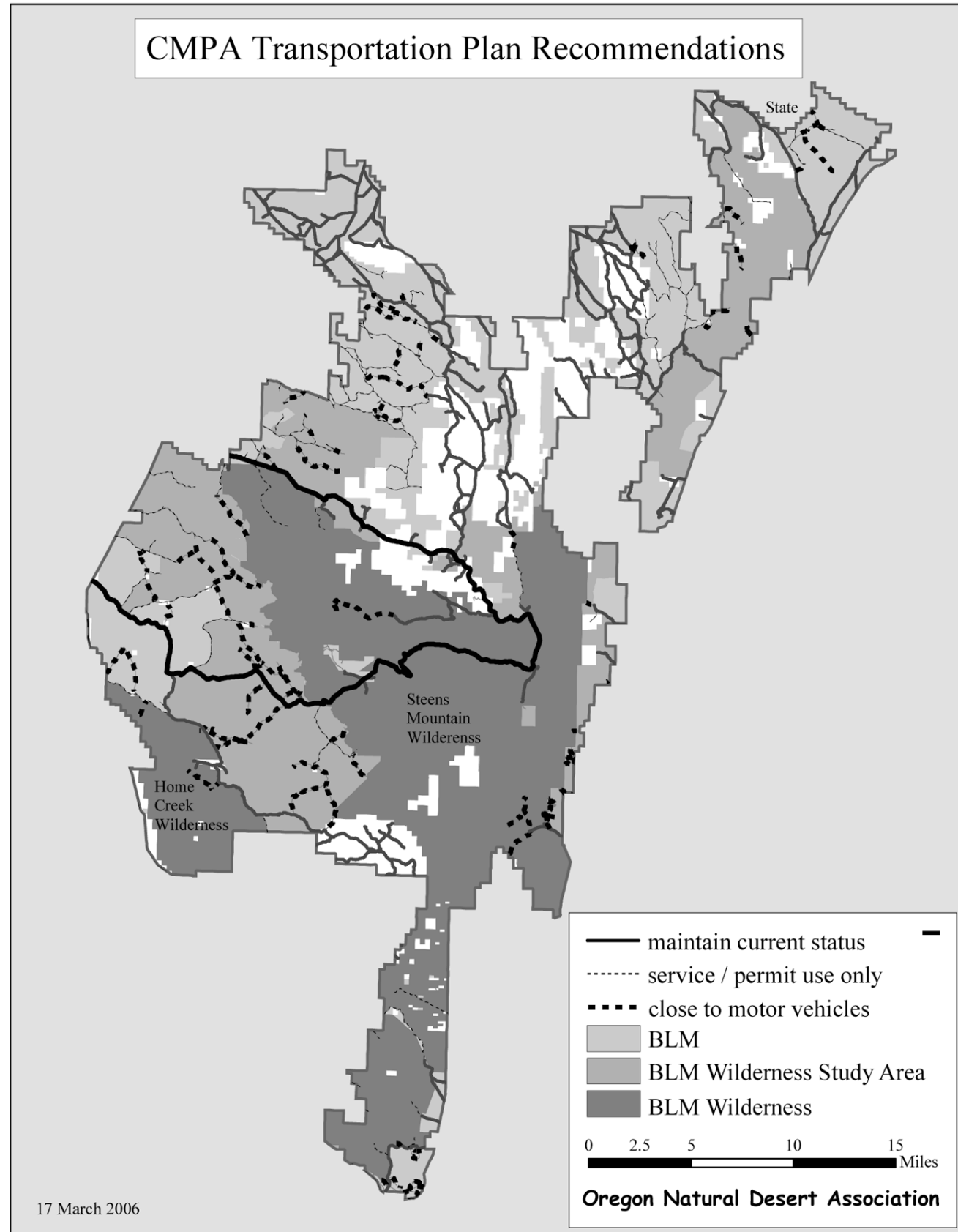
The Steens Act achieved a political outcome that was satisfactory to “both” sides, but it has not resulted in all stakeholders agreeing to a common vision. Conservationists want more Wilderness and less livestock on public lands. Ranchers want to maintain, if not increase, livestock numbers and their “way of life.”

In short, the Steens Act does not represent a new model for cooperative management of public lands. A model implies an ability to replicate. How often do you have a departing president inspired by a conservation-minded interior secretary to create a legacy for future generations?

If there is a take-home message from the Steens Act, one cannot legislate cooperation. Nonetheless, such “omnibus” bills can often be politically viable and can also often be in the public interest. It boils down to this: Can omnibus legislation resolve controversy by giving a critical mass of stakeholders what they care most about by taking away what they care least about?



ONDA's recommended travel plan for Steens identifies where motor vehicles are allowed. The plan was submitted to the BLM in January 2006. Although the Steens Act requires the BLM to create a travel plan, the BLM has not done so, and the agency's failure is one issue in ONDA's lawsuit against the BLM.



NORTON from page 1

FOR ONDA, Sec. Norton will best be remembered for her backroom settlement of a lawsuit with the State of Utah, in effect dismantling BLM's wilderness inventory handbook (that provided guidance to BLM in cooperating with citizen conservation groups wanting to help BLM maintain their inventory of public lands with wilderness values).

Further retrenchment came with Norton's selection (though the president nominates and the Senate confirms) of William G. Myers III, to serve as solicitor for the Department of the Interior in 2001. (In a former life, Myers was the director of federal lands for the National Cattlemen's Beef Association.)

Upon his appointment, Meyers promptly repealed legal guidance developed by his predecessor, former Solicitor John Leshy, allowing BLM to accept the relinquishment of grazing permits for conservation use.

Last, but not least, Norton's forthcoming public lands grazing rules will limit the ability of citizens to participate in decisions affecting grazing on public lands.

Coinciding with Sec. Norton's tenure was the first five years under the new Steens Mountain Cooperative Management and Protection Act (CMPA), passed by Congress in 2000. The act's purpose is to "to conserve, protect, and manage the long-term ecological integrity of Steens Mountain for future and present generations."

Most would consider the Steens Act a work in progress, yet to fulfill anyone's goal. In part because of the "collaborative" nature in crafting the act, the act tried to give a little something to everyone. Ranchers and persons with private inholdings want unfettered access in the wilderness, and conservation groups want BLM to manage the land to a higher ecological standard.

In our view, BLM has not lived up to its new mandate, and ONDA recently filed a lawsuit against BLM for failing to prepare a management plan that addressed several important issues (see Legal Docket on page 13).

Not surprising, several issues in our lawsuit relate directly to Sec. Norton's agenda. Most obvious was the so-called Norton-Utah settlement dismantling BLM's guidance for maintaining an up to date inventory of wilderness values on public lands. In spite of ONDA's efforts to provide BLM with a new inventory during the planning process, our information was subject to BLM's new, anti-wilderness posture, and much of our data was perfunctorily dismissed.

Another issue raised in our lawsuit was the plan's omission to ask whether public lands were suitable for on-going grazing. While ONDA acknowledges that ranchers on Steens are bona-fide stakeholders, that does not mean BLM can ignore its duty to protect water quality in streams from on-going cattle damage.

Also in the lawsuit is BLM's failure to prepare a travel plan for Steens (explicitly required under the act) identifying where motor vehicles are allowed. ONDA feels BLM must be held accountable for protecting the wildlife and wilderness values by controlling off-road vehicles. To help BLM, ONDA staff and volunteers spent literally hundreds of hours field inventorying and preparing recommendations for a travel plan that were submitted to the BLM (see map on page 10).

Another opportunity removed from the Steens plan relates to Solicitor William Meyers' anti-conservation agenda. Where the draft

management plan for Steens allowed for the relinquishment of grazing permits, the final plan deleted that provision, public support notwithstanding.

Would a national monument proclaimed under President Clinton have been a better outcome? In an op-ed piece I wrote for The Oregonian in 1999, I felt a monument was the best option at the time. In the end, however, I remain satisfied with legislation, but only time will tell.

Would we do it over again? Yes, given that hindsight is 20/20.

While some still suggest conservation groups, including ONDA, compromised too much on Steens, we supported legislation because it offered better protection than a Clintonian proclamation. It is only a compromise (in a conservation context) in that there remains unfinished business: over 150,000 acres of unprotected wilderness, and ongoing livestock grazing polluting creeks and trampling stream-sides.

The dynamics of the Steens Act revolved around one simple fact: former Secretary of Interior Bruce Babbitt was committed to having President Clinton create a Steens Mountain National Monument. We used that promise as leverage to achieve our goal of securing better protection via legislation (than by proclamation), knowing Babbitt had one last card to play.

The take home message of the Steens Mountain Protection and Cooperative Management Act is you cannot legislate cooperation. At Rep. Greg Walden's insistence, the word "cooperative" was inserted in the title of the act (most similar designations on BLM lands are typically called "national conservation areas").

Rep. Walden's motive, though altruistic, was on track. We should cooperate where possible. But cooperation needs a common vision (or threat), promulgated by people who have a common understanding, and can relate to each other on a level playing field.

What created a level playing field in 2000 was the "threat" of a national monument by a departing president. That some people saw a monument as a threat underscores the difficulty of cooperating with the rest of us who saw a Steens Monument as an opportunity.



Beside a Desert River

by Jane Glazer

Here, in the shade of junipers, the desert full of small and sound – sage and greasewood, sun-dried grass, the red-winged blackbird’s call – you have come back whole to me, my first love, beside a river purling through tall reeds, where marsh wren scold and rapids roil the muddy water, mirage created by sweltering weather.

Blitzen River, Steens Mountain Wilderness. PHOTO: GREG BURKE



Beside a Desert River is from High Desert Journal, Issue 2 published in October 2005. High Desert Journal is a twice-a-year literary and visual arts magazine dedicated to further understanding of the people, places and issues of the high desert east of the Cascades. Subscriptions are \$14.00 for one year and \$27.00 for two. To subscribe, visit: www.highdesertjournal.com



You have come to this palpable air, this emptiness, chimerical as heat waves, to surprise me here, with students the same age we were when we marked our broad-jump records in the desert dust with broken juniper boughs, the berries acrid, reeking as cat pee.

We have kept our ears cocked all this musky afternoon, eyes peeled for rattlesnakes, tracks of coyotes, arrowheads in the sand. Across the Blitzen river, a prairie falcon poses in the rocks, stiff as taxidermy. Here, where the desert brightness sears away pretenses, I miss your vibrant life. The clouds are changing patterns on the land.

BLM delays or drops two rangeland projects on Beaty Butte.

In Oct. 2005, ONDA challenged the BLM’s decision to implement a rangeland project on Beaty Butte in southeast Oregon, in an area with inventoried wilderness values. The project, slated for construction within the East and West gulches near Beaty Butte’s summit, involves more than 20 miles of fences and pipelines, six new water developments, and construction of two miles of new road on the ridgeline overlooking East Gulch.

After the BLM repeatedly insisted on moving forward with the project during the litigation, ONDA on March 1, 2006 filed a motion for preliminary injunctive relief. A week later, the agency agreed to hold off on the project until September 1, 2006. This allows time for the court to decide the case without necessitating an immediate injunction hearing. This is an interim victory for ONDA because it means wilderness and other values on Beaty Butte are safe from destructive structural “rangeland improvements” for at least six more months while the court has the opportunity to consider the merits of this case.

Elsewhere on Beaty Butte, the BLM has agreed to withdraw altogether a separate, similar project. In October 2004, ONDA obtained an order from an administrative law judge (ALJ) in the Department of the Interior, barring the BLM from implementing a proposed fencing/pipeline project near Buckaroo Pass several miles south of the Gulches. Because the project is based on BLM-identified grazing problems, ONDA argued the BLM should have considered alternatives involving reduced grazing or increased herding – not just adding many miles of new fences and piping water away from fragile desert springs. The ALJ agreed with ONDA and issued an order barring BLM from implementing the project until the judge could decide ONDA’s claims. As ONDA began to prepare to go to hearing on the project, the BLM in March 2006 announced its intent to withdraw the project altogether.

Successes under the Freedom of Information Act

Although it prefers to work cooperatively with federal agencies when seeking public information, occasionally ONDA is forced to file suit to enforce the public’s right to obtain non-exempt public records under the Freedom of Information Act. ONDA filed two such suits in 2005, both of which have seen successful results in 2006.

In court rulings issued in January and March, ONDA prevailed on three important claims in a suit targeting NOAA Fisheries’ extraordinarily lengthy processing of ONDA FOIA requests. For many years, the agency consistently has taken as much as a year at a time to process requests concerning annual grazing consultations and related Endangered Species Act consultation in the John Day River basin. The agency uses the Department of Commerce’s “date-of-request” cut-off date for producing responsive records. This means that by the time ONDA receives responsive records there are many months’ worth of additional records in existence which the agency fails to produce. ONDA thus is forced to repeatedly submit identical requests in order to try to get relatively timely records that are not outdated or of significantly lesser value by the time they arrive. The District

of Oregon agreed with ONDA that NOAA had violated the FOIA by not processing ONDA’s requests in a timely fashion. Importantly, the court also agreed that Commerce’s cut-off date regulation is illegal, causing the Department to announce that it will be amending its regulations.

In a separate action filed in October 2005, ONDA challenged the BLM and Department of the Interior’s handling of a two-year-old FOIA request asking for documents related to the agency’s analysis of ONDA’s wilderness inventory report during the Andrews-Steens RMP planning process. ONDA challenged the agency’s decision to withhold over 100 pages of documents without adequately explaining how they fit within one of the FOIA’s exemptions, as well as the use of a cut-off date that left more than a year’s worth of documents unaccounted for. In the Jan. 25, 2006 settlement, the BLM agreed to: (1) perform a new search for documents responsive to ONDA’s request, through August 2005 (when the Andrews-Steens RMP was adopted); (2) provide those responsive documents or explanations for any withholdings within 45 days; and (3) provide additional explanation for 4 withheld documents which were disputed in the litigation. These documents, as well as additional documents the agency produced after ONDA filed its suit, are important to ONDA’s ability to review the BLM’s treatment of ONDA’s wilderness inventory information in the Andrews-Steens RMP.

Ninth Circuit hears argument in Malheur cases

On March 7, 2006, the Ninth Circuit Court of Appeals heard oral argument in Portland, Ore. on ONDA’s appeal in its PACFISH/INFISH cases on the Malheur National Forest. The issue on appeal is whether Annual Operating Instructions (“AOI”) issued by the Forest Service are “final agency actions” vesting jurisdiction in the district court to review the agency’s actions. In June 2005, the district court dismissed ONDA’s cases because the court determined that AOIs “merely implement” decisions already made in the underlying grazing permits. Each year, the Forest Service issues AOIs to individuals holding federal term grazing permits. An AOI is a signed agreement that sets final authorized dates of grazing, pasture and grazing system rotations, numbers of livestock permitted for the up-coming season, monitoring and reporting requirements, maximum limits of forage use by livestock, and other specific ecological standards that must be met. Included among these are standards tied to key stream and riparian habitat features necessary to protect steelhead and bull trout, native salmonids listed as “threatened” under the Endangered Species Act. ONDA’s case targets the agency’s annual authorization of grazing practices which continue to cause violations of nearly every applicable ecological standard the agency is charged with satisfying in these areas.





Durlin Hickok

Welcome Durlin Hickok, board president

Ever since Dr. Durlin Hickok joined the ONDA board in 2003, he has shown outstanding leadership and passion for ONDA's mission. Although busy as a clinical professor at the University of Washington and vice president of medical affairs for the Adeza Biomedical Corporation, he has made the time to hold ONDA house parties, board meetings, events, and outings. It is my pleasure to hand over the reins of Board President to Durlin, and we all look forward to seeing his skills and energy focused on overseeing ONDA's future. Welcome Durlin, Board President!

– Craig Miller, outgoing president

MEMORIALS
RUDY CLEMENTS



Rudy Clements, Warm Springs tribal leader and ONDA supporter, with ONDA Executive Director Bill Marlett at the 1996 Eugene Celebration, where they were gathering signatures for Measure 38, the Oregon Clean Stream Initiative.

Remembering Rudy

Rudy Clements, leader of the Warm Springs tribe, passed away December 28, 2005 at the age of 69. Rudy was on ONDA's board (1998-2000), and remained on the advisory board until he died.

"I met Rudy (and wife Anna) during the 1988 Oregon Rivers Initiative campaign where they were invited to give a traditional salmon bake and entertain with his family drum circle (The Screaming Eagles). For the next several years, Rudy and family were always a presence at the Oregon River Rendezvous gatherings in Bend. Rudy was involved with the 1996 Clean Stream Initiative (Measure 38) where he involved Chief Nelson Wallulatum as one of the three initiative petitioners for the ballot measure. Rudy was deeply dedicated to Indian People, Culture and all Creation, especially the Salmon. A kindred spirit and friend, he had a sharp wit, keen sense of humor and will be missed by many."

– Bill Marlett

MEMORIALS
THANK YOU

Thank you, Anne Marie and Roger Worthington

ONDA would like to thank Ann Marie and Roger Worthington for their generous donation, in honor of David "Punch" Worthington who has been a regular "fence puller" at Steens Mountain. They would like to express the following message about David.

"His strength, courage and love for nature will forever impact our lives."

Thank you Ann Marie, Roger and David for your support!

Thank you, David Johns

ONDA would like to thank David Johns for his generous donation in memory of his brother Gene "Scottie" Marr of Burns. Gene "truly enjoyed and loved the high desert country." Thank you!

Thank you, John Carter

ONDA would like to thank John Carter for his generous donation in memory of Kiesha. "Kiesha was my 10-year-old akita who packed for me in wilderness areas and other places so we could survey watersheds and enjoy long trips together. She died in '05 and I continue to work on public lands to protect the places we worked on together over those years and some 3,000 days in the field." Thank you!



Clothing

ONDA T-shirts. White, sage and neutral. with logo. When ordering, specify size.

Women's short sleeve (S, M, L) \$15

Men's short sleeve (M, L, XL) \$15

Long sleeve (M, L, XL) \$18

Long-sleeve shirts are not available in sage.

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If you have any questions about the "Cars for Conservation" program or would like to donate your vehicle, please contact Pete Hickok at 541.330.2638 or phickok@onda.org.



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