

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

*IN RE WILDERNESS INVENTORY
AND MANAGEMENT ON THE
BURNS DISTRICT, SOUTHEASTERN
OREGON,*

**OREGON NATURAL DESERT
ASSOCIATION,**

Petitioner.

Filed With—

**Deb Haaland, in her official
capacity as Secretary, United
States Department of the Interior**

**Cc: Tracy Stone-Manning,
Director,
Bureau of Land Management**

**Barry Bushue,
State Director,
Oregon/Washington BLM**
and others.

**Petition for
Rulemaking
Docket No. _____**

SUBMITTED BY:

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GLOSSARY OF ACRONYMS

AMU	Andrews Management Unit
APA	Administrative Procedure Act
ARMPA	Approved Resource Management Plan Amendment
BLM or “the Bureau”	United States Bureau of Land Management
CMPA	Steens Mountain Cooperative Management and Protection Area
EIS	Environmental Impact Statement
ESA	Endangered Species Act of 1973
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act of 1976
GRSG	Greater Sage-Grouse
LWC	Lands with Wilderness Characteristics
NEPA	National Environmental Policy Act of 1969
ODFW	Oregon Department of Fish and Wildlife
ONDA	Oregon Natural Desert Association
RMP	Resource Management Plan
SEORMP	Southeastern Oregon Resource Management Plan
USGS	United States Geological Survey
WSA	Wilderness Study Area

STATEMENT OF INTEREST

The **Oregon Natural Desert Association** (“ONDA”) is a non-profit, public interest, conservation organization whose members use and enjoy the public lands throughout the greater Steens Mountain area in southeastern Oregon. ONDA’s mission is to protect, defend, and restore forever the health of Oregon’s native deserts. For decades, ONDA has engaged extensively in public processes for planning and management of the federally administered public lands in this area, which the Bureau of Land Management manages through its Burns District office. ONDA submits this petition pursuant to the Administrative Procedure Act (“APA”), 5 U.S.C. § 553(e), and Department of the Interior regulations, 43 C.F.R. Part 14. ONDA is “an interested person” under the APA and respectfully requests the Secretary to grant the relief requested herein. 5 U.S.C. §§ 551(2), 553(e).¹

¹ The APA directs that “each agency [of the Federal Government] shall give an interested person the right to petition for the issuance . . . of a rule.” 5 U.S.C. § 553(e). A “rule” means “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.” *Id.* § 551(4).

PETITION FOR RULEMAKING

The Oregon Natural Desert Association respectfully requests that the Department of the Interior direct and support preparation of a new, up-to-date and accurate, wilderness inventory for federal public lands managed by the Bureau of Land Management (“the Bureau” or “BLM”) on the Burns District, located in the heart of southeastern Oregon. The Burns District manages nearly three-and-a-half million acres of public land spanning from the southern Blue Mountains and Harney Basin to Steens Mountain, the crown jewel of Oregon’s high desert—but for decades has largely failed to keep current its inventory and management direction for wilderness values on these lands. A new inventory is necessary to bring the Burns District’s wilderness characteristics inventory and management direction into alignment with neighboring districts and comply with the Bureau’s statutory and other legal obligations.

Under the Federal Land Policy and Management Act of 1976 (“FLPMA”), 43 U.S.C. §§ 1701–1787, the Bureau is required to “prepare and maintain on a continuing basis an inventory of public lands and their resources and other values.” *Id.* § 1711(a). The inventory “shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.” *Id.* The Burns District last updated its wilderness inventory information in 2003 for the Andrews Resource Area spanning the district’s southern half and more than a decade ago for the Three Rivers Resource Area to the north. On the Three Rivers Resource Area, the Bureau has *never* incorporated wilderness findings into a governing land use plan.

The Burns District’s decades-old wilderness review occurred during the period following the George W. Bush administration’s decision to rescind the agency’s 2001 wilderness inventory handbook. In that administration’s view, the Bureau had no obligation to inventory for or manage wilderness values on the public lands outside of

Wilderness Study Areas (“WSA”) identified in the 1970s. Following that direction, the Burns District, between 2003 and 2011, rejected all but a smattering of more than 1.3 million acres of statutorily defined wilderness areas identified by the public (who had applied the methodology set out in the Bureau’s rescinded 2001 inventory manual) throughout the greater Steens Mountain landscape.

But then two important events occurred. First, ONDA won a landmark court decision in which the U.S. Court of Appeals for the Ninth Circuit held that the Bureau has both the authority and the obligation to consider wilderness values—just like any other resource or value—during land use planning and on-going management of the public lands. *Or. Nat. Desert Ass’n v. Bureau of Land Mgmt.* (“*ONDA v. Bureau*”), 625 F.3d 1092 (9th Cir. 2010). Second, and as a result of that court ruling, the Bureau under the Obama administration reinstated its long-standing wilderness policy, issuing manuals in 2012 to once again guide the agency’s evaluation and management of wilderness-quality public lands (BLM 2012a, 2012b).

In the decade that followed, the Bureau updated its wilderness inventory information throughout much of eastern Oregon. The agency surveyed most of the more than 10 million acres of public land managed by its Prineville, Lakeview, and Vale districts. Those district offices have identified more than three million acres of lands with wilderness characteristics (“LWC”). The Prineville District adopted a land use plan that emphasizes wilderness preservation on some lands, and the Lakeview and Vale districts are currently studying their options for managing millions of acres of identified LWC through land use plan amendments.

The Burns District, situated in the center of these other districts, remains an outlier. Unlike the other districts, the Burns District has not revisited its outdated reviews that were undertaken in the absence of administrative guidance and in the shadow of the Bush administration’s unlawful “no-more-wilderness” policy. And it has not

amended or revised its land use plans to incorporate up-to-date information and apply new policy. It is past time for the Bureau to update its wilderness inventory and management in the Burns District, including as part of new resource management planning anticipated in the district.

These vast, roadless areas are vestiges of the undeveloped American West. They provide exceptional opportunities for solitude and quiet recreation, support millennia-old cultural traditions, and encompass some of the most intact and biologically significant sagebrush steppe remaining in North America. In the face of earth's rapidly changing climate, the sagebrush ecosystem is among the "most imperiled" in North America. 12-Month Findings for Petitions to List the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered, 75 Fed. Reg. 13,910, 13,916 (Mar. 23, 2010).

Conservation of roadless areas and wildlands in the sagebrush biome is essential to the survival of hundreds of species of native plants, animals, and invertebrates. If managed to preserve their wilderness character, these places can serve to sequester massive amounts of carbon, provide crucial climate resiliency, and significantly contribute to the urgent global effort to conserve 30% of our lands and waters by the year 2030. Accurate inventory of these wilderness character lands may also serve as a precursor to their more permanent protection, either as WSAs under section 202 of FLPMA, 43 U.S.C. § 1712, or as congressionally designated Wilderness areas.

This petition therefore presents the Department of the Interior and the Bureau of Land Management with a critical opportunity. While the Bureau throughout most of eastern Oregon has affirmatively sought to keep its inventories and land use plans up-to-date and consistent with law and policy, and to identify areas where irreplaceable wilderness values should be preserved, outdated information and management plans in the greater Steens Mountain area leave a gaping hole in the Bureau's capacity to help meet the Biden administration's

historic goal of tackling the climate and extinction crises head-on. To accomplish this goal, the Bureau should update its outmoded wilderness inventory using current guidance, evaluate new and more accurate information, including public-generated wilderness inventories, and update its land use plan direction for these important public lands on the Burns District's Andrews and Three Rivers resource areas, including Steens Mountain.

For these reasons, and as described in more detail below, ONDA respectfully requests that the Secretary direct and support the Bureau to begin this work now and to protect wilderness values in the interim period until the agency completes this important task. Accordingly, the issues presented by this petition are—

Whether the Secretary of the Interior should:

- (1) Direct the Bureau to complete an up-to-date and accurate inventory of roadless areas and wilderness values on the public lands managed by the Burns District;
- (2) Direct the Bureau, upon completion of that updated wilderness inventory, to revise or amend its land use plans for the (i) Steens Mountain Cooperative Management and Protection Area, (ii) Andrews Management Unit, and (iii) Three Rivers Resource Area; and
- (3) Direct the Bureau, until it has updated its wilderness inventories and completed these new land use plans or plan amendments, to protect finite and irreplaceable wilderness values by ensuring that no project or plan is implemented in agency- or public-identified lands with wilderness characteristics, where such action would diminish the size or cause the entire unit to no longer meet the criteria for wilderness character.

STATEMENT OF THE ISSUE

There are millions of acres of spectacular, publicly owned wildlands in southeastern Oregon. These largely unfragmented landscapes provide essential habitat to imperiled fish and wildlife species. They increase resiliency against wildfire and other threats stemming from earth's changing climate. And they preserve human cultural values important to people who have lived in this region for thousands of years.

Of the approximately 12.5 million acres of public lands managed by the Bureau in the sagebrush landscapes of eastern Oregon, there are 211,000 acres of designated Wilderness, 2.7 million acres of WSA, and 3.1 million acres of LWC. Another 1.5 million acres of public-inventoried wilderness areas have not yet been recognized by the Bureau. The overwhelming majority of these unrecognized acres are on the Burns District, which is home to the southern Blue Mountains, vast Harney Valley, and Steens Mountain (**Figs. 1 & 2; Table 1**). This is one of the iconic landscapes of the American West.

I. STEENS MOUNTAIN AND THE SURROUNDING LANDSCAPE

Steens Mountain rises from the sagebrush steppe, deep in southeastern Oregon's high desert. At 60 miles long and 9,773 feet high at its peak, much of the mountain is wilderness. In addition to the congressionally designated Steens Mountain Wilderness Area (173,000 acres), there are seven WSAs (120,000 acres total) and eleven public inventory-proposed wilderness areas (81,000 acres total) on the mountain. The Department of the Interior includes Steens Mountain in its National Landscape Conservation System, established by Congress in 2009 to protect nationally significant landscapes recognized for their outstanding cultural, ecological, and scientific values. *See Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, 123 Stat. 991 (codified in scattered sections of 16 U.S.C.).*

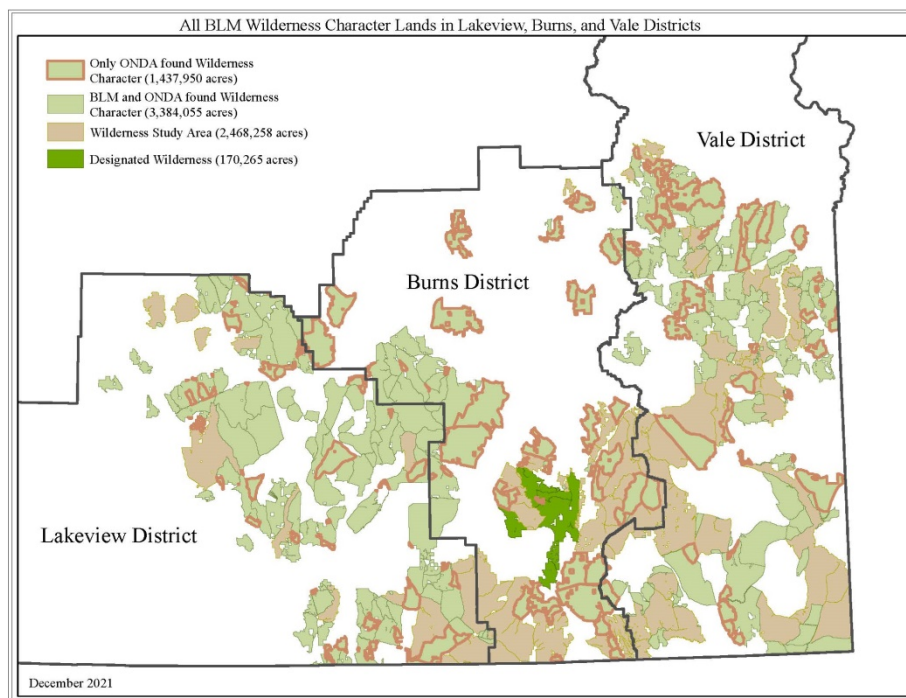


Fig. 1. All wilderness character areas on Bureau-managed public lands in southeastern Oregon.

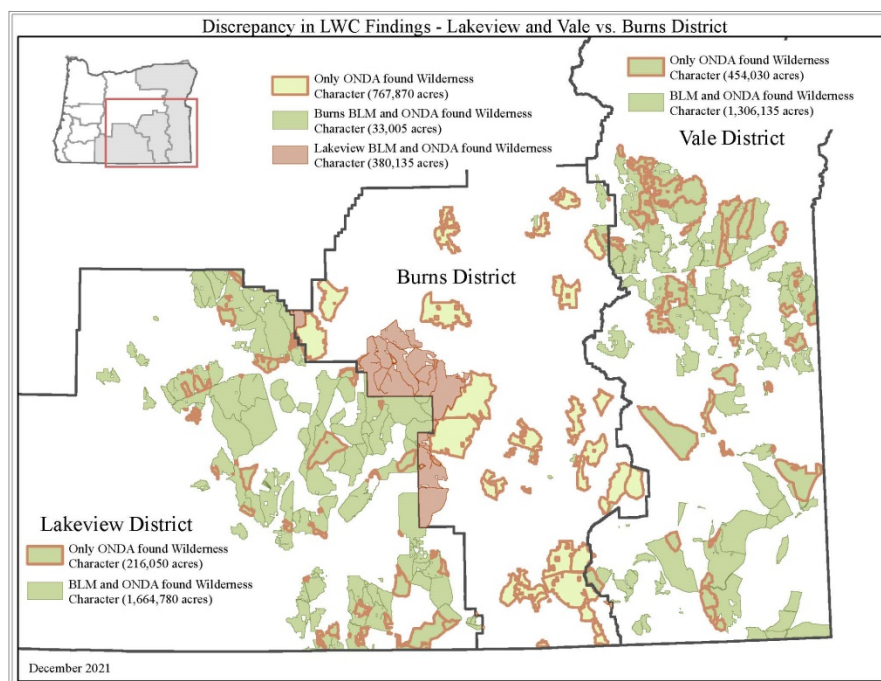


Fig. 2. Discrepancy in LWC findings between Lakeview, Burns, and Vale districts on Bureau-managed public lands in southeastern Oregon.

Table 1. Summarizing acres of wilderness identified by ONDA and the Bureau. These data derive from different sources, including original ONDA inventories, revised calculations based on updated GIS data, and various Bureau sources. As a result, some of the numbers are more precise than others.

BLM District	ONDA Inventory Report	Acres Inventoried	Wilderness Acres Found	BLM LWC Acres	Percent Agreement (acres)
Lakeview	Lakeview District ^a (2005, 2015)	2,600,000	1,705,494 (19 units)	1,665,596 (111 units)	98%
Vale	Vale District ^b (2003, 2019)	2,200,000	1,306,602 (43 units)	1,253,455 (82 units)	96%
Prineville District	Lower John Day River Basin (2006)	335,000	175,063 (13 units)	35,457 (16 units) ^c	20%
Burns District	Three Rivers Resource Area (Burns District) (2007)	1,500,000	751,810 (15 units)	53,159 (4 units)	7%
	Andrews Resource Area (Burns District) (2002a, 2002b)	750,000	568,313 (24 units)	6,364 (4 units)	1%
	Totals:	7,385,000	4,507,282 (111 units)	3,014,031 (219 units)	67%

^a Excludes Klamath Falls Resource Area.

^b Excludes Baker Resource Area.

^c BLM recognized 35,457 acres of wilderness character land, but in the final John Day Basin RMP decided to protect only 19,442 of those acres as “Areas to be Managed to Protect Wilderness Characteristics.” See JDBRMP ROD, Map 4. The remaining 15,840 acres of LWC only receive protection for “elements” of their wilderness characteristics via scattered provisions regarding visual resource management classifications, right-of-way limitations, and limits on mineral development, vegetation treatment actions, and road density. See JDBRMP FEIS at 461, Table 4-19; *see also id.* at 79–83 (providing summary of management actions for LWC and, for example, allowing mechanical vegetation treatment consistent with VRM II on up to 40% of non-protected LWC areas “for the purpose of maintaining or restoring ecological condition and long term wilderness characteristics”).

The Bureau's Burns District manages more than three million acres of public land in this area, including about 1.68 million acres on the Three Rivers Resource Area covering the district's northern half and another 1.68 million acres on the Andrews Resource Area (which includes Steens Mountain) to the south.

Congress passed the Steens Mountain Cooperative Management and Protection Act ("Steens Act") in 2000. 16 U.S.C. § 460nnn *et seq.* The purpose of the Act is "to conserve, protect, and manage the long-term ecological integrity of Steens Mountain for present and future generations." *Id.* § 460nnn-12(a). The mountain "lies near the center of one of the last remaining strongholds of contiguous sagebrush habitat essential for the long-term persistence of greater sage-grouse." *Or. Nat. Desert Ass'n v. Jewell*, 840 F.3d 562, 565 (9th Cir. 2016) (internal quotes omitted). The Steens Mountain Cooperative Management and Protection Area ("CMPA"), established in the Steens Act, provides essential habitat for what Interior has recognized as a "regionally significant" sage-grouse population (Anderson 2000). To the north of Steens Mountain, large expanses of sagebrush and high desert unfold across nearly two million acres of public land—from the vast Harney Basin to the southern Blue Mountains—in the Burns District's Three Rivers Resource Area.

The many, large roadless areas in the greater Steens Mountain area and throughout the Burns District are important to the sage-grouse. This imperiled bird requires vast, uninterrupted expanses of healthy sagebrush plant communities for its survival. Fragmentation of sagebrush habitat is the primary cause of the decline of the sage-grouse. 12-Month Finding on a Petition To List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species, 80 Fed. Reg. 59,858, 59,867 (Oct. 2, 2015).

As many as 16 million sage-grouse once ranged across 297 million acres of sagebrush grasslands, an area of western North America so vast it is sometimes called the Sagebrush Sea (PBS 2015). Over the past

200 years, agriculture and development have reduced the bird's range by nearly half, and sage-grouse abundance has dramatically declined (Coates *et al.* 2021, Remington *et al.* 2021, Garton *et al.* 2015). Scientists understand that “[c]onservation actions for [sage-grouse] are frequently considered as an ‘umbrella’—benefitting other sagebrush species that often lack data or resources for development of individual conservation strategies” throughout the West’s sagebrush habitats (Remington *et al.* 2021) (USGS report in which sage-grouse experts identified more “than 735 species of plants, vertebrates, or invertebrates inhabiting the sagebrush biome in the Great Basin alone”); *see also* Hanser & Knick (2011) (also discussing sage-grouse as an “umbrella species” for conservation). Sage-grouse populations have declined by 80% range-wide since 1965, and by nearly 40% since 2002, according to the U.S. Geological Survey (Coates *et al.* 2021).

Preserving roadless areas and wilderness character is essential to sage-grouse conservation. The core—and irreplaceable—wilderness values of naturalness and roadlessness are at the heart of landscape-scale habitat conservation and biodiversity protection. For example, beginning in 2013, the Bureau identified key “Strategic Areas” in land use plan amendments for sage-grouse conservation in southeastern Oregon. These include Climate Change Consideration Areas, Restoration Opportunity Areas, and High Density Breeding Areas. *See* Oregon Greater Sage-Grouse Proposed Resource Management Plan Amendment and Final Environmental Impact Statement (“2015 FEIS”) (BLM 2015a), Fig. 2-4 (“Strategic Areas in the Planning Area”); *see also* Oregon Sub-Region Greater Draft Resource Management Plan Amendment and Environmental Impact Statement, Fig. 2-2 (“Focal Areas in the Planning Area”) (BLM 2013). Climate Change Consideration Areas are “high elevation (typically above 5,000 feet) with limited habitat disturbance.” 2015 FEIS at 2-47 to -48. The Bureau explained that it “identified these areas as likely to provide the best habitat for the [greater sage-grouse] over the long term, according to recent climate change modeling.” *Id.*

Today, many agency- and public-identified wilderness areas are also recognized as crucial to mitigating the impacts of climate change and for their value as relatively unfragmented sagebrush habitat essential to the survival and recovery of the sage-grouse and other sagebrush obligate species. **Fig. 3, 4, 5** (maps depicting overlap of sage-grouse habitat with wilderness and special management areas on Bureau-managed lands in southeastern Oregon).

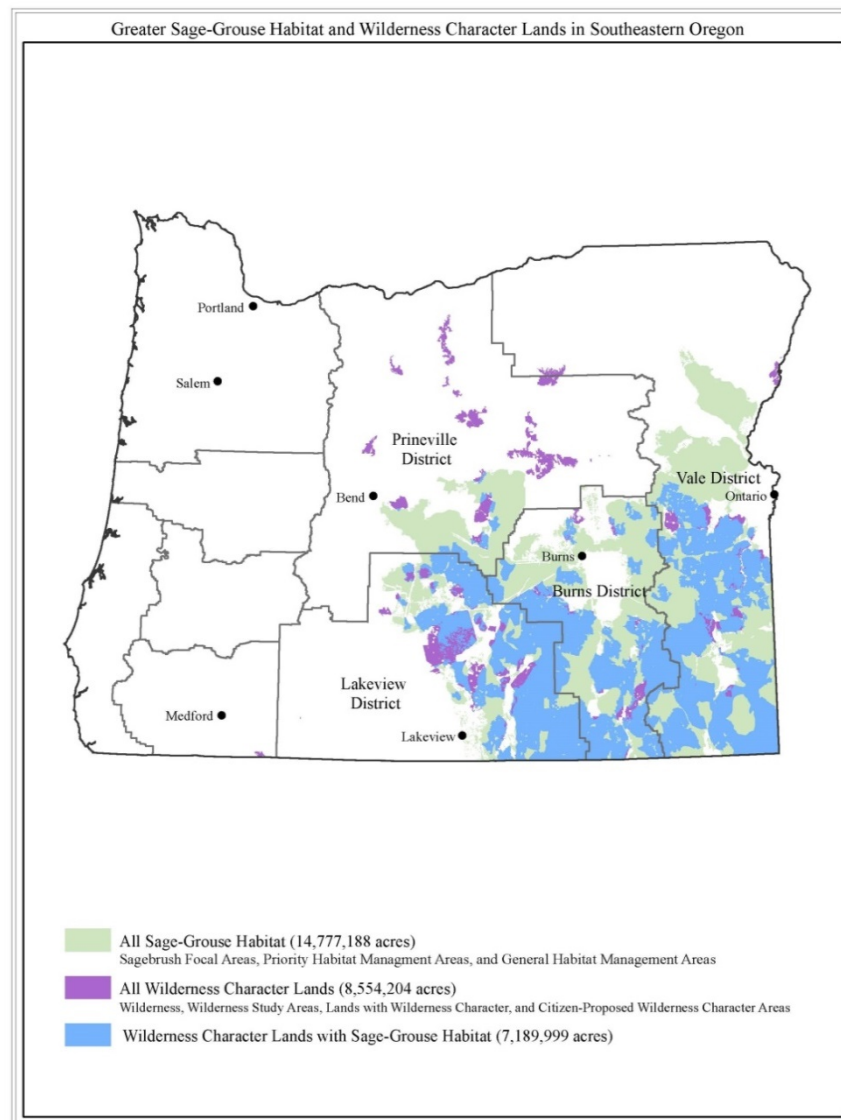


Fig. 3. Sage-grouse habitat and wilderness character lands in southeastern Oregon. Most wilderness character lands also provide outstanding sagebrush habitat.

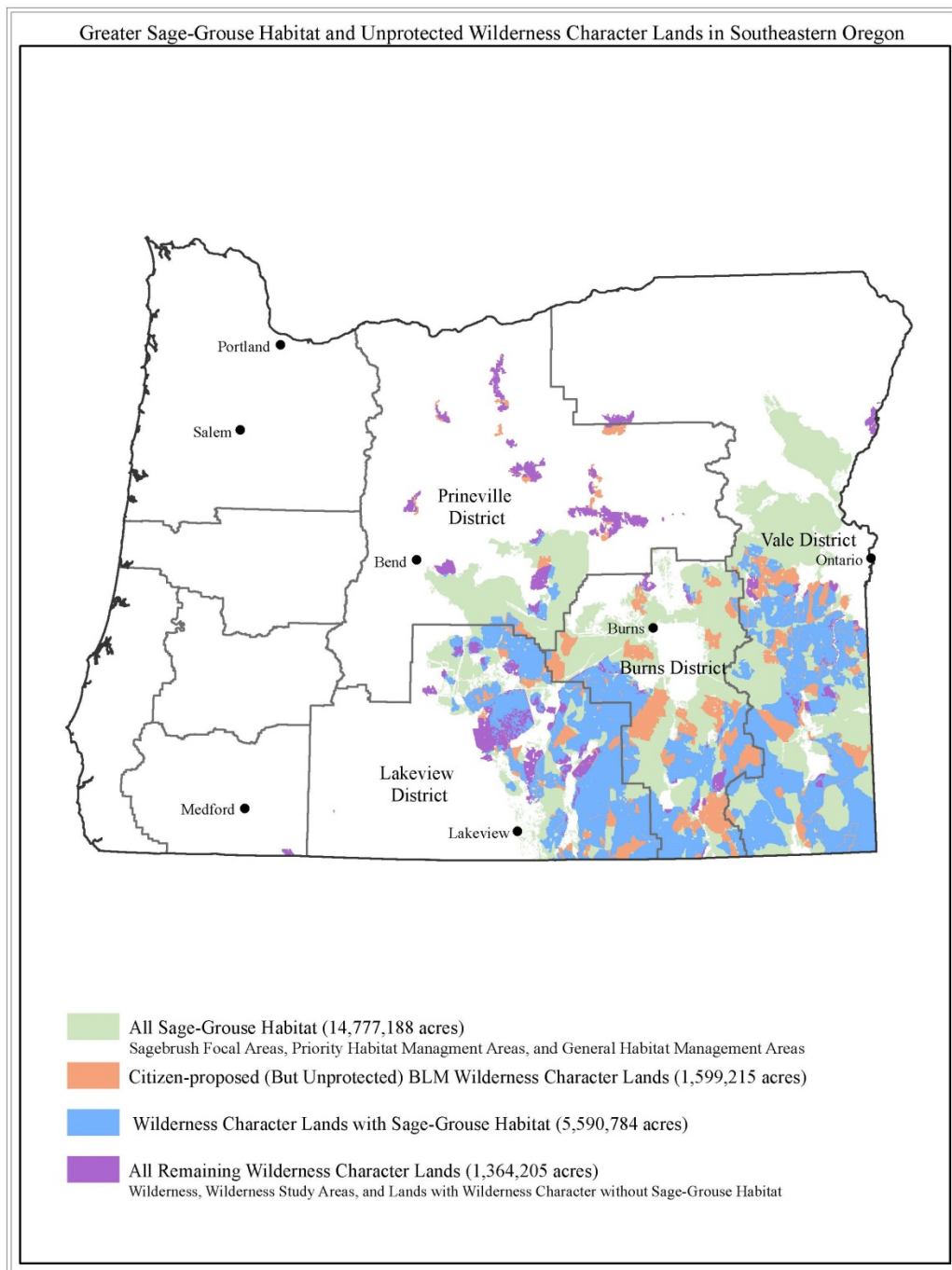


Fig. 4. Unprotected wilderness character sage-grouse habitat on Bureau-managed public lands in southeastern Oregon. The majority of these unrecognized wilderness areas are on the Burns District, where the Bureau has never applied current policy and handbook guidance to establish accurate, ground-based route and wilderness inventory information.

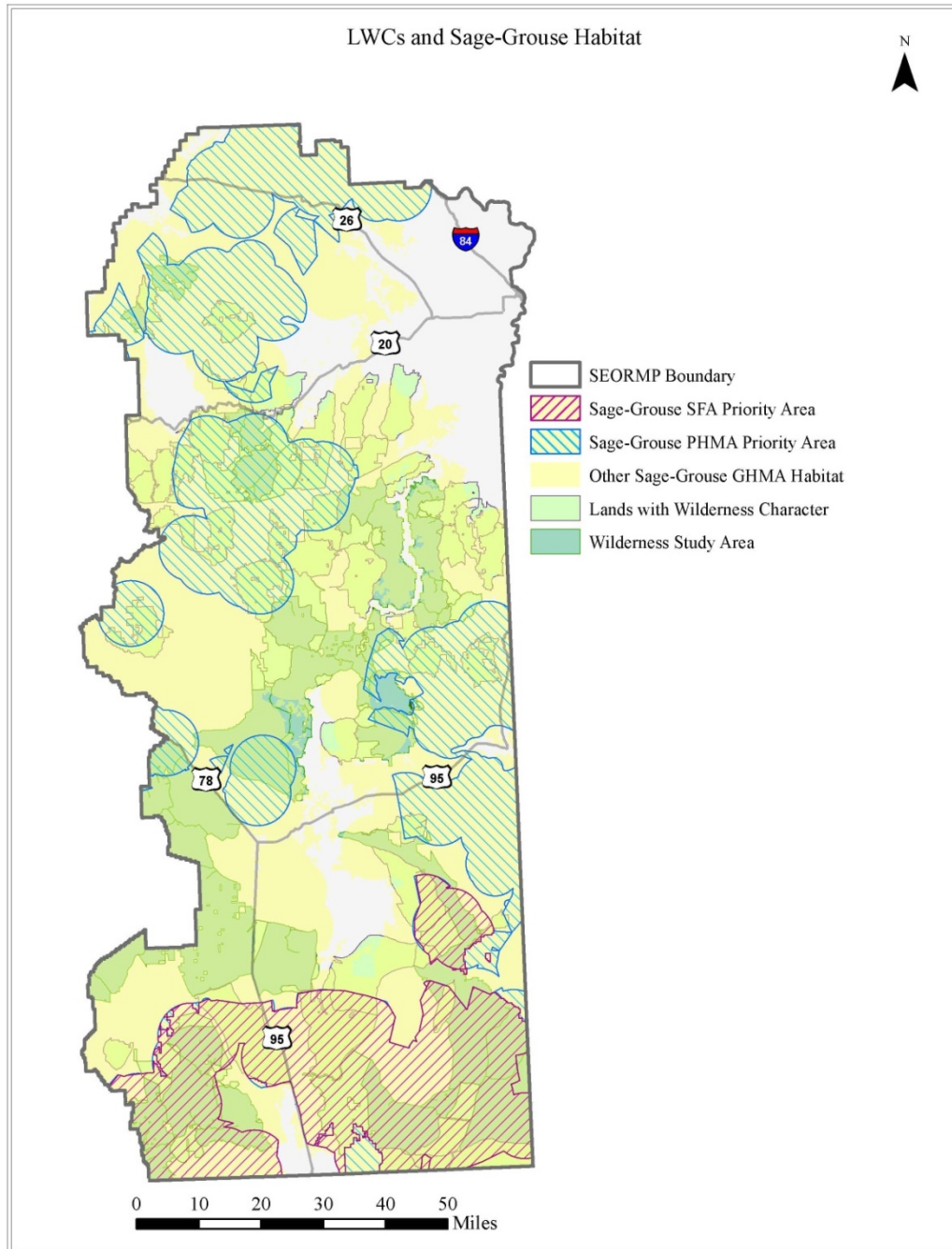


Fig. 5. Map illustrating the overlap between Wilderness Study Areas, BLM-identified Lands with Wilderness Characteristics, and BLM-identified greater sage-grouse habitat within the Southeastern Oregon RMP planning area. On the Vale District, the agency appropriately applied handbook guidance and departmental policy, conducting an up-to-date and accurate inventory of wilderness values outside of existing WSAs.

II. FEDERAL LAND MANAGEMENT IN SOUTHEASTERN OREGON

A. Federal Land Policy and Management Act of 1976

The Bureau's land management authority is defined by FLPMA. FLPMA requires the Bureau to manage the public lands consistent with the "principles of multiple use and sustained yield." 43 U.S.C. § 1732(a). To do so, the Bureau must make reasoned and informed analyses, balancing competing resource values to ensure that the public lands are managed in a manner "that will best meet the present and future needs of the American people." *Id.* § 1702(c).

The multiple use mandate requires the Bureau to manage the public lands and resources "without permanent impairment of the productivity of the land and the quality of the environment." *Id.* To that end, Congress declared that it is the policy of the United States that the public lands shall "be managed in a manner that . . . will preserve and protect certain public lands in their natural condition." *Id.* § 1701(a)(8). The Bureau must "take any action necessary to prevent unnecessary or undue degradation of the lands." *Id.* § 1732(b).

FLPMA directs the Bureau to "develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands." *Id.* § 1712(a). The Bureau must manage the public lands in accordance with these land use plans. *Id.* § 1732(a).

To ensure that the Bureau has adequate information to complete this task, FLPMA directs the agency to "prepare and maintain on a continuing basis an inventory of public lands and their resources and other values This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values." *Id.* § 1711(a). The Bureau must "arrange for resource, environmental, social, economic, and institutional data and information to be collected, or assembled if already available." 43 C.F.R. § 1610.4-3.

The Bureau is, in particular, to collect “[n]ew information and inventory data [that] will emphasize significant issues and decisions with the greatest potential impact.” *Id.*

B. Wilderness Act of 1964

Among public land resources, “lands with statutorily-defined wilderness characteristics are of particular importance.” *ONDA v. Bureau*, 625 F.3d at 1097. Congress identified the conservation of wilderness lands as a “national priority” in the Wilderness Act. *Id.* FLPMA “interacts with the Wilderness Act to provide the BLM with broad authority to manage areas with wilderness characteristics contained in the federally owned land parcels the Bureau oversees, including by recommending these areas for permanent congressional protection.” *Id.*

In the Wilderness Act, a “wilderness” is defined, “in contrast with those areas where man and his own works dominate the landscape,” as “an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.” 16 U.S.C. § 1131(c). To qualify as wilderness, an area must (1) generally appear “to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable”; (2) have “outstanding opportunities for solitude or a primitive and unconfined type of recreation”; and (3) have at least 5,000 acres of land or be “of sufficient size as to make practicable its preservation and use in an unimpaired condition.” *Id.* The area may also contain ecological, geological, or other supplemental values. *Id.*

C. Wilderness Policy

Pursuant to FLPMA and the Wilderness Act, the Department of the Interior has adopted manuals (BLM 1978, BLM 2001, BLM 2012a, BLM 2021a) that guide the Bureau’s inventory and management of wilderness character lands outside of existing Wilderness and WSAs. These areas are known as Lands with Wilderness Characteristics or

“LWC.” In its current wilderness inventory manual, the BLM 6310 Manual (BLM 2021a), the Bureau recognizes, as it has in prior manuals, that “[m]anaging the wilderness resource is part of the BLM’s multiple use mission.” BLM 6310 Manual at 1. “Lands with wilderness characteristics provide a range of uses and benefits in addition to their value as settings for solitude or primitive and unconfined recreation.” *Id.*

For decades following the passage of FLPMA, the Bureau recognized that it must treat wilderness just like any other resource or value on the public lands. Under the George W. Bush administration, however, the Bureau abandoned that view. In a 2003 court settlement with the state of Utah, that administration agreed to an interpretation of FLPMA limiting the Bureau to a one-time review of areas with wilderness characteristics. The Bush administration claimed the Bureau had completed that one-time review decades ago during a 1970s inventory. The Bureau subsequently ceased recommending lands for preservation as wilderness and rescinded its 2001 wilderness inventory handbook. *See Utah v. Norton*, 396 F.3d 1281, 1284–85 (10th Cir. 2005) (describing the history of the litigation leading to the settlement); *see generally Utah v. Norton*, No. 2:96-cv-0870, 2006 WL 2711798 (D. Utah Sept. 20, 2006) (describing the settlement).

Starting in 2003, ONDA filed a series of legal actions aimed at the Bush administration’s “no-more-wilderness” policy. In 2008, ONDA won a landmark court decision in *ONDA v. Bureau*. That case was about the Southeastern Oregon Resource Management Plan (“SEORMP”) for the Bureau’s Vale District, where the agency had refused to consider non-WSA wilderness values when preparing its land use plan. The Ninth Circuit held that because the Bureau has the *authority*, under FLPMA, to manage lands to preserve wilderness values, it has the *duty*, under the National Environmental Policy Act (“NEPA”), to consider whether such lands exist in the planning area and, if so, how to manage those values as part of the agency’s multiple-use mission. *ONDA v. Bureau*,

625 F.3d at 1122; *see also Or. Nat. Desert Ass'n v. Rasmussen*, 451 F. Supp. 2d 1202, 1213 (D. Or. 2006) (applying same principle to site-specific projects and activities).

The 2008 appellate decision led to a settlement agreement in 2010 that resolved ONDA's claims for both the SEORMP and the Lakeview RMP.² Under the settlement, the two land use plans continued to guide resource management, but the Bureau agreed to interim protective measures³ for public- and agency-identified wilderness values and to a public process for updating its inventory information and amending the two plans to reconsider wilderness and other issues. *See Appendix A* (2010 Settlement Agreement).

Importantly, the litigation led the Bureau to once again recognize its responsibility under FLPMA to maintain, on a continuing basis, a current inventory of wilderness character lands and to consider how to manage such lands. In 2012, the Obama administration issued new manuals guiding wilderness inventory review and land management (BLM 2012a, BLM 2012b). It had been more than a decade since the Bureau had wilderness inventory guidance and manuals in place, following the Bush administration's rescission of the 2001 manual.⁴

² ONDA had challenged the Lakeview RMP, which guides management of about 3.2 million acres of land on the Lakeview District, to the west of Steens Mountain, in a companion case, *Or. Nat. Desert Ass'n v. Gammon*, No. 6:06-cv-523-HO (D. Or. filed Apr. 21, 2006), on appeal at the time the Ninth Circuit issued its decision in the SEORMP case.

³ ONDA asks the Secretary to now apply these same measures on the Burns District while it updates its inventory and planning there.

⁴ The Bureau issued revised manuals at the close of the Trump administration (BLM 2021a, 2021b). Those manuals, largely consistent with the 2012 editions, do not alter the Bureau's ongoing obligation and authority, under FLPMA, to consider and manage for wilderness values.

Key to the issues presented in this petition, the Bureau’s manuals require the agency to be consistent from one area to the next. The manual on considering wilderness characteristics in land use planning (BLM 2021b) requires that the BLM Director shall “[c]oordinate with State Directors on considering and, as warranted, protecting lands with wilderness characteristics in land use plans.” BLM 6320 Manual at 1-2.⁵ Both manuals require that the State Director must “provide statewide program coordination and guidance” for wilderness inventory and protection. BLM 6310 Manual at 1-1; BLM 6320 Manual at 1-2. The State Director also must provide support to District and Field Offices “to ensure lands with wilderness characteristics and potential resource conflicts are adequately analyzed.” BLM 6320 Manual at 1-2. There is a clear expectation of state office oversight and coordination to ensure that the Bureau’s wilderness inventory and management actions are consistent from one district to the next.

This is echoed in the 2010 settlement agreement. Paragraph twenty-three of the agreement—which applies to plan amendments being conducted on the Vale and Lakeview districts, situated on either side of the Burns District—expressly highlights the issue of consistency in inventories: “To ensure maximum consistency among the BLM Districts and Field Offices, the BLM will follow up the ‘calibration’ workshop it held for personnel involved in inventory updates with one or more field calibration sessions that shall be open to members of ONDA, any interested public, and possible invited experts.”

Finally, in 2021, ONDA joined dozens of other petitioners in asking the Secretary to use the authority granted by Congress under section 202 of FLPMA, 43 U.S.C. § 1712, to help meet President Biden’s “30x30” goal by protecting the nation’s remaining Bureau-managed lands with wilderness characteristics not presently recognized as

⁵ References to the Bureau’s handbooks and manuals are to the current edition, unless otherwise specified.

Wilderness, WSA, or LWC. *See infra* Agmt. Sec. I.E.2 (describing “30x30” initiative). Of the many tools at the Interior department’s disposal to protect the Bureau’s wildest places, irreplaceable cultural resources, and native species, none has the sweeping potential and durability as designating new FLPMA section 202 WSAs.

III. WILDERNESS INVENTORY AND MANAGEMENT IN SOUTHEASTERN OREGON

The Bureau conducted its initial wilderness review in Oregon in the late 1970s, pursuant to FLPMA’s mandate to recommend WSAs to the President for permanent legislative preservation as wilderness. 43 U.S.C. § 1782. By 1987, the Bureau had identified 85 WSAs in Oregon, spanning about 2.7 million acres of public land (BLM 1991). The Bureau completed a final environmental impact statement in 1989, and the Secretary sent his recommendations to the President in 1991. The Secretary advised permanent preservation for less than half of those lands—only 1,278,073 acres within 49 of the WSAs (BLM 1991). In 1992, the President submitted these recommendations to Congress. With limited exceptions, Congress has not yet acted upon those recommendations.⁶

The Bureau then embarked on a series of land use plan updates. In 1995, the Bureau announced that it would prepare a land use plan governing much of the agency’s Burns and Vale districts in southeastern Oregon. Intent to Prepare a Resource Management Plan for the Andrews, Malheur, and Jordan Resource Areas, Oregon, 60 Fed. Reg. 44,042 (Aug. 24, 1995). In 2000, after the Steens Act was signed

⁶ *See* 16 U.S.C. §§ 460nnn-61, -92 (designating 170,200-acre Steens Mountain Wilderness Area and releasing specified other lands on Steens Mountain from WSA status); Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991, 1044–1052 (establishing 29,301-acre Oregon Badlands Wilderness and 6,382-acre Spring Basin Wilderness).

into law, the Bureau bifurcated that process into the SEORMP on the Vale District (for what were then the Malheur and Jordan resource areas) and two counterpart land use plans—the Andrews Management Unit (“AMU”) RMP and the Steens Mountain Cooperative Management and Protection Area (“CMPA”) RMP—for the southern half of the Burns District. *See* Harney and Malheur Counties, OR; Andrews Resource Area, Steens Mountain; Resource Management Plan, 66 Fed. Reg. 63,402 (Dec. 6, 2001) (notice of intent to prepare separate RMPs for AMU and CMPA).

ONDA noted that it had been two decades since the Bureau had last inventoried wilderness characteristics on these public lands. The public raised this concern during planning processes for each of these RMPs, plus the Lakeview RMP, also initiated at that same time. As early as the late-1990s, ONDA argued that the Bureau needed to update its baseline information on roadless areas and wilderness values before designing new management strategies for the region.

The time has come for the agency to conduct a reinventory of [roadless] lands [in southeastern Oregon]. . . . Such an inventory . . . should exclude those areas already designated as WSAs and focus instead on other lands that were overlooked or deemed ineligible during the first inventory. . . . We are confident that the BLM may be able to identify additional lands that should be protected.

Letter from Joy Belsky, ONDA, to Edwin J. Singleton, BLM (Mar. 1, 1999) (on file with author); *see also ONDA v. Bureau*, 625 F.3d at 1101 (quoting same letter). Preservation of wilderness values was an issue that resonated with the public; like ONDA, the majority of public commenters urged the Bureau to update its wilderness inventory information and to protect wilderness-quality lands in Oregon’s high desert, including on and around Steens Mountain.

The Bureau declined to do so and, through the 2003 Utah settlement, the Department of the Interior formalized its view that the Bureau no longer had any legal obligation, or even authority, to inventory, manage, or preserve wilderness values on public lands outside of existing WSAs. *See, e.g.*, CMPA RMP (BLM 2005) at 81 (“As a result of the settlement of *Utah v. Norton*, authority for the BLM to designate new WSAs under FLPMA Section 202, or manage any additional lands under FLPMA Section 603, was ruled to have expired in 1993.”); *see also* **Appendix B** (letter from Bureau to ONDA stating that prior wilderness inventory guidance had been “rescinded” and “current BLM policy prohibits establishing new WSAs” and that “23 areas proposed by ONDA were found to lack wilderness characteristics”).

ONDA responded by launching an independent inventory program.⁷ In surveying public lands, ONDA followed the long-standing methods and documentation requirements set out in the Bureau’s *Wilderness Inventory & Study Procedures Handbook* (BLM 2001), which was consistent with the agency’s original *Wilderness Inventory Handbook* (BLM 1978). ONDA thus collected and published information that the Bureau itself was barred—by Bush administration policy—from gathering and considering.

ONDA submitted its wilderness inventory report for Steens Mountain and surrounding areas on the Andrews Resource Area to the Bureau in 2002 (ONDA 2002a, 2002b). This was early in the Bureau’s

⁷ ONDA sometimes refers to “citizen” inventory information here and in its reports, following the terminology used by the Bureau in its wilderness inventory and management handbooks (BLM 2021a, 2021b), but recognizes and appreciates that any person may gather, submit, and advocate for wilderness recognition and preservation on public lands, regardless of their citizenship status. ONDA therefore uses the terms “citizen” and “public” interchangeably in this petition.

land use planning process for the area. ONDA asked the Bureau to consider that information in the land use planning and NEPA process. In 2003, the Bureau released a Draft Environmental Impact Statement (“Draft EIS”) for the AMU and CMPA plans. The Draft EIS failed to mention the ONDA report. ONDA asked the Bureau to release any analysis the agency had undertaken of the public report, explaining that this would help inform the public’s review of the proposed land use plans. The Bureau declined to do so. In the Final EIS, issued in 2004, the Bureau merely stated that it had received “information” from ONDA, and an internal review team had identified a single, 2,000-acre parcel of land “as having wilderness characteristics, as a result of a change in conditions on the ground.”

In 2005, the Bureau issued its Records of Decision for the AMU and CMPA RMPs (collectively referred to as the “Andrews-Steens RMPs”). The agency failed to recognize or provide any special management for the 545,000 acres of wilderness lands ONDA had identified. In the plans, the Bureau identified only a few thousand acres of what it called “Parcels with Wilderness Characteristics.” *See* Proposed RMP and Final EIS at 2-158 to -159 (identifying Bridge Creek (1,526 acres), High Steens (629 acres), Lower Stonehouse (2,176 acres), and Alvord Desert (2,033 acres) as “Parcels with Wilderness Characteristics”). The Bureau decided that those four parcels would “not [be] provided additional special management status” and would “be managed according to the RMP direction for surrounding non-WSA lands.” CMPA RMP (BLM 2005d) at 81.

It was not until 2006, following litigation, that the public gained access to a series of “Citizen Proposal Evaluation Forms” (hereafter “Evaluation Forms”) the Bureau had completed on August 8, 2003—prior to the release of the Draft EIS, but never disclosed to the public in that or the Final EIS. *See Or. Nat. Desert Ass’n v. U.S. Dep’t of the Interior*, No. 3:05-cv-1587-ST (D. Or. filed Oct. 17, 2005) (where a 2006 settlement in a Freedom of Information Act lawsuit resulted in

production of Bureau’s wilderness determinations); **Appendix C** (the belatedly released 2003 “Citizen Proposal Evaluation Forms”). The public never had the chance during the land use planning process to review up-to-date information on wilderness values nor the Bureau’s analysis rejecting the ONDA reports, despite the completion of that analysis three years earlier, prior to the issuance of both the Draft and Final EISs.

Subsequent litigation further revealed that the Bureau had conducted no field work prior to rejecting the ONDA reports. The Bureau had “updated” its 1970s original inventory “by reviewing ONDA’s wilderness recommendations” in “team meetings” in agency offices (rather than conducting any field study), “rel[ying] primarily on” its 1970s information. *Or. Nat. Desert Ass’n v. Shuford*, No. 6:06-cv-242-AA, 2007 WL 1695162, *6–7 (D. Or. June 8 2007). The agency’s deskbound analyses, culminating with the Evaluation Forms in 2003, had occurred just months after the Bureau had entered into the illegal wilderness settlement with the state of Utah. *See ONDA v. Bureau*, 625 F.3d at 1111. The secreted 2003 Evaluation Forms constitute the entirety of the Burns District office’s last analysis of whether or not wilderness lands exist outside of existing WSAs and Wilderness on Steens Mountain and the Andrews Resource Area.

Even so, the 2003 Evaluation Forms reveal that although the Bureau rejected ONDA’s wilderness findings almost across-the-board, the agency *did agree* (but did not disclose) that ONDA had accurately documented at least 407,414 acres that qualify as “roadless” areas. *See Table 2* (summarizing roadless area, naturalness and other wilderness findings). Reviewing the 2003 internal evaluation forms, it also becomes evident that the Bureau found that about 185,000 acres of the publicly identified units are what ONDA has since termed “Roadless Natural Areas.” These are places the Bureau has recognized as being “roadless” (5,000 acres or larger) *and* primarily “natural” in character, yet (according to the Bureau’s flawed 2003 findings) subjectively lacking

Table 2. Summary analysis of inventory findings and roadless areas identified by the Bureau in its 2003 “Citizen Proposal Evaluation Forms” for the Steens Mountain area (Burns District, Andrews Resource Area).

ONDA Inventory Unit Name	ONDA Unit Acres	BLM Unit(s) Name(s)	BLM Unit Acres	BLM findings-- Meets FLPMA Size Req't?	Natural?	Primitive & Unconfined Recreation?	Solitude?
Alvord Desert Addition	1,958	(same) acres not evaluated	1,958 -	Yes (as addition)	Y	Y	Y
Alvord Lake	35,722	Subunit C acres not evaluated	25,820 9,902	Yes	Y/N	N	N
Ancient Lake	36,372	Subunit B Subunit E Subunit F Subunit G acres not evaluated	6,145 5,845 11,215 11,160 2,007	Yes Yes Yes Yes	Y Y Y Y	N N N N	N N N N
Bear Dog Springs	15,784	Subunit C acres not evaluated	11,420 4,364	Yes	Y	N	N
Babes Canyon	13,041	Subunit D acres not evaluated	11,470 1,571	Yes	Y/N	N	N
Big Basin	11,400	Subunit N acres not evaluated	5,310 6,090	Yes	N	N	N
Black Point	81,454	Subunit 74M Subunit 75A Subunit 75C acres not evaluated	27,690 15,550 29,280 8,934	Yes Yes Yes	N N N	N N N	N N N
Blitzen River South	6,432	Subunit B acres not evaluated	5,200 1,232	Yes	Y	N	N
Catlow Peak	5,460	(same) acres not evaluated	5,460 -	Yes	Y	N	N
Coffin Butte	22,377	Subunit G Subunit H (western portion) acres not evaluated	10,035 6,600 5,742	Yes Yes	Y Y	N N	N N
Denio Creek Addition	2,398	(same) acres not evaluated	2,398 -	Yes (as addition)	N	Y	N
Grassy Ridge	23,214	(same) acres not evaluated	23,214 -	Yes	Y	N	N
Keg Springs	180,022	Subunit 1-57B Subunit 1-159 Subunit 2-94A Subunit 2-58 acres not evaluated	8,525 39,870 43,430 22,840 65,357	Yes Yes Yes Yes	Y Y Y/N Y	N N N N	N N N N
Krumbo Creek	24,925	[none] acres not evaluated	- 24,925				
Ladycomb Peak	6,035	[none] acres not evaluated	- 6,035				
Mahogany Rim	20,357	(same, portion of ONDA unit) acres not evaluated	16,800 3,557	Yes	Y/N	N	N
Mud Creek Addition	2,028	(same) acres not evaluated	2,028 -	Yes (as addition)	N	N	N
Pueblo Mountain Addition	132	(same) acres not evaluated	132 -	Yes (as addition)	Y	N	N
Quail Creek	13,201	Subunit K acres not evaluated	6,000 7,201	Yes	Y	N	N
Riddle Creek	19,787	Subunit B' + WW (combined) acres not evaluated	5,000 14,787	Yes	N	N	N
Roaring Springs	9,767	(same) acres not evaluated	9,767 -	Yes	Y/N	N	N
Tule Springs	22,975	(same) acres not evaluated	23,780 -	Yes	Y/N	N	N
West Blitzen River	3,822	(same) acres not evaluated	3,822 -	Yes (as addition)	Y/N	N	N
Table Mountain	9,650	(same) acres not evaluated	9,650 -	Yes	Y	N	N
Total ONDA Acres	568,313	TOTAL BLM ROADLESS ACRES:	407,414				
		Acres not evaluated by BLM:	161,704				
		ROADLESS NATURAL AREAS:	185,269				

outstanding opportunities for solitude or for primitive and unconfined recreation. But again: the Bureau did not include or consider those findings in the environmental impact statements for the Andrews-Steens RMP. And the Bureau has never otherwise divulged, referenced, or considered them in other management or project planning on the Burns District in the two decades since.

The *Shuford* litigation also established that the Bureau's route inventories for Steens Mountain were incomplete. First, the agency failed to prepare a "comprehensive" transportation plan for Steens Mountain as part of the CMPA RMP, as required by the Steens Act. *Shuford*, 2007 WL 1695162, at *17–19; 16 U.S.C. § 460nnn-22(a) (transportation plan requirement). The court concluded that a bare-bones, eight-page "Transportation Plan" the Bureau had prepared was insufficient. As the court noted, the Bureau had conceded as early as 2005 that "an additional Environmental Assessment and 'Travel Management Plan' is required 'to complete the comprehensive transportation plan' after further field inventories and need determinations are conducted." *See* 2007 WL 1695162, at *18 (quoting the Bureau). This is important here because, as the Bureau otherwise recognizes, a complete and accurate route inventory is the *threshold requirement* for preparing a wilderness inventory and LWC determination (BLM 2021a).

As a result, in 2007, the Bureau released a travel management plan ("Travel Plan") for Steens Mountain. Again, though, the agency's baseline was incomplete. The Bureau designated a 555-mile network of what it described as "existing" roads. ONDA disputed that contention, pointing to its wilderness inventory reports and subsequent route surveys showing that hundreds of miles of the agency's mapped roads are impassable or simply do not exist on the ground. The Bureau itself described many of its mapped routes as "obscure" or "hard to find" on the ground. ONDA argued that allowing driving or maintenance on these routes would damage Steens Mountain by establishing motorized

use in fragile roadless areas—for example, by providing conduits for weed infestations and fragmenting essential wildlife habitat.

The Bureau pushed its “existing roads” premise through years of litigation, but never produced any evidence to support the assertion. Finally, in 2019, the Ninth Circuit Court of Appeals rejected it, holding that the Bureau had failed, among other things, to establish the baseline conditions necessary to assessing the travel plan’s environmental impacts and to provide for meaningful public review during the planning process. *Or. Nat. Desert Ass’n v. Rose*, 921 F.3d 1185, 1189–92 (9th Cir. 2019). The court vacated the Travel Plan and an accompanying Recreation Plan and remanded for the Bureau to prepare a new plan. *Id.* at 1193. Today, a court-approved stipulated injunction limits driving and maintenance on 135 controversial routes spanning about 120 miles on Steens Mountain. See **Appendix D** (stipulated injunction, including map and chart identifying routes).⁸

* * *

Meanwhile, on the Three Rivers Resource area the Bureau has not updated its wilderness inventory information for more than a decade, and it has *never* incorporated *any* wilderness findings into its land use plan for that area. The Three Rivers RMP (BLM 1992) has not been updated for thirty years. As in other areas, ONDA’s wilderness report for the Three Rivers Resource Area, submitted to the Bureau in 2007, documented that, of 1.5 million acres surveyed, there are more than

⁸ The stipulation continues an injunction that had been in place for more than a decade, having been ordered by the district court in 2011, expanded by that court in 2015, and reinstated by the Ninth Circuit in 2018. See *Rose*, [18-35258 ECF 15-2 at 22](#) (Aug. 5, 2011 injunction order); [18-35258 ECF 20](#) (June 28, 2018 Order). The district court described that the injunction is intended to prevent the Bureau from converting “obscure or non-existent routes . . . into permanent elements of the landscape.” [18-35258 ECF 15-2 at 57](#) (Nov. 6, 2012 order).

731,000 acres of wilderness-quality lands outside of existing WSA (ONDA 2007). As in other reports, including for the Burns District’s Steens Mountain and Andrews Management Unit areas to the south, ONDA also documented high-quality greater sage-grouse and other fish and wildlife habitats as “supplemental” wilderness values in almost every roadless unit identified (ONDA 2007, 2002b, 2002a). Ongoing wilderness inventory work—expected to culminate in submission of updated wilderness reports to the Bureau in the coming year—indicates that there are about 770,000 acres of wilderness character lands in twenty-two separate units on the Three Rivers Resource Area.

In 2009 and 2010—again, prior to the *ONDA v. Bureau* settlement, prior to the Department of the Interior’s restoration of its wilderness policy, and prior to the 2012 reinstatement of the Bureau’s wilderness inventory manual—the agency rejected most of ONDA’s 2007 findings for the Three Rivers Resource Area. *See Fig. 1 & Tables 1 and 3* (agency rejected 93% of ONDA’s documented wilderness character areas). The agency’s review forms, titled, “Wilderness Inventory Maintenance in BLM Oregon/Washington,” found just 53,159 acres of land, in four units, that possessed wilderness character—but rejected almost 700,000 acres of wilderness character units identified in the ONDA report.⁹

As on Steens Mountain and the Andrews Management Unit, the Bureau’s findings for the Three Rivers area are inaccurate and were made in a policy void prior to reinstatement of long-standing wilderness management policies and manual guidance. Also like those other findings, the Bureau’s forms indicate the agency *did* agree with ONDA

⁹ See BLM, *Burns District Wilderness Characteristics Assessments* (Sept. 7, 2022, 10:41 AM), <https://www.blm.gov/programs/planning-and-nepa/plans-in-development/oregon-washington/burns-wci>. Numbers shown in different ONDA and Bureau reports and tables may differ based on administrative unit boundaries and GIS datasets.

Table 3. Roadless areas identified by the Bureau on 2009–2010 “Wilderness Inventory Maintenance in BLM Oregon/Washington” interim forms (Burns District, Three Rivers Resource Area).

Roadless Areas Identified by BLM on 2009-2010 "Wilderness Inventory Maintenance in BLM Oregon/Washington" forms for the Burns District, Three Rivers Resource Area							
https://www.blm.gov/programs/planning-and-nepa/plans-in-development/oregon-washington/burns-wci							
					BLM findings—		
ONDA Wilderness Character	ONDA Unit Acres	BLM Unit(s) Name(s) (LWC in boldface)	BLM Unit Acres		Meets FLPMA Roadless Area Size Req't?	Natural?	Primitive & Unconfined Recreation?
Buzzard Creek	482,828	West Warm Springs Unit 1	19,387		Y	N	n/a
		West Warm Springs Unit 2	12,500		Y	Y	N
		West Warm Springs Unit 3	7,623		Y	N	N
		West Warm Springs Unit 4	7,642		Y	N	N
		West Warm Springs Unit 5	19,093		Y	Y	N
		West Warm Springs Unit 6	18,871		Y	Y	Y
		West Warm Springs Unit 7	8,187		Y	Y	N
		West Warm Springs Unit 8	5,569		Y	N	N
		West Warm Springs Unit 9	5,514		Y	N	N
		West Warm Springs Unit 10	13,159		Y	N	N
		West Warm Springs Unit 11	11,403		Y	Y	Y
		West Warm Springs Unit 12	7,296		Y	Y	N
		West Warm Springs Unit 13	14,815		Y	Y	N
		West Warm Springs Unit 14	23,389		Y	N	N
		West Warm Springs Unit 15	15,890		Y	Y	N
		West Warm Springs Unit 16	11,333		Y	Y	N
		West Warm Springs Unit 17	7,192		Y	Y	N
		West Warm Springs Unit 18	34,263		Y	Y	N
		West Warm Springs Unit 19	14,221		Y	Y	N
		West Warm Springs Unit 20	14,945		Y	Y	N
		West Warm Springs Unit 21	17,083		Y	Y	N
		West Warm Springs Unit 22	7,389		Y	N	N
		West Warm Springs Unit 23	15,257		Y	N	N
		West Warm Springs Unit 24	6,290		Y	Y	N
		West Warm Springs Unit 25	11,525		Y	Y	Y
		West Warm Springs Unit 26	12,015		Y	N	n/a
		Dusenbury Lake	6,309		Y	Y	N
		Hole in the Ground	16,774		Y	Y	N
		Murphy Lake	11,685		Y	Y	N
		Silver Lake	4,967		N	Y	N
		acres not evaluated		81,242			
Cottonwood	16,684						
		2-17, Rocky Basin	11,360		Y	Y	N
		acres not evaluated		16,684			
Crane Creek Mountains	8,293	Crane Mountains	11,289		Y	N	N
		acres not evaluated		(2,996)			
Deadwood Ranch	22,607						
		acres not evaluated		22,607			
Merlie Table	15,665	Merlie Table	12,297		Y	Y	N
		acres not evaluated		3,368			
Middle River	56,535						
		Upton Mountain	5,567		Y	Y	N
		acres not evaluated		50,968			

Table 3 cont. —

Palomino	51,882	OR-025-004F/Batts Camp Lake OR-025-004A/Chain Lake OR-025-004G Dog Mountain OR-025-004H/ Lunch Lake OR-025-004B Weaver Lake	6,665 20,251 6,336 5,019 9,389		Y Y Y Y Y	Y Y Y Y Y	N N N N N	N N N N N
		acres not evaluated	4,222					
Pine Creek	26,798	Greenley Gulch	5,257		Y	Y	N	N
		acres not evaluated		21,541				
Riddle Creek Addition	20,293			20,293				
Sheep Mountain	33,422							
		Rim Rock Lake Unit (2-47)	24,962		Y	Y	N	N
		acres not evaluated		26,349				
Silvies River	17,829	Silvies River Unit (2-19)	7,073		Y	N	N	N
		acres not evaluated		17,829				
Tin Can Ridge	18,974							
		Crane Creek	6,383		Y	N	N	N
		Tin Can Ridge	12,179		Y	N	N	N
		acres not evaluated		412				
Lonesome Lakes	196,015	Bald Butte Black Canyon Chandler Butte Lost Creek	23,650 9,632 14,456 5,038		Y Y Y Y	Y Y Y Y	N N N N	N N N N
		acres not evaluated		143,239				
BLM-only Inventory Units								
n/a		Birch Creek	10,826		Y	Y	N	N
n/a		Buck Mountain Unit (Subunit 2-1N)	22,217		Y	Y	N	N
n/a		Buzzard Ridge	8,369		Y	Y	N	N
n/a		Claw Creek Unit	5,439		Y	N	N	N
n/a		Clear Creek	13,245		Y	Y	N	N
n/a		2-16A, Cottonwood Cr.	7,750		Y	Y	N	N
n/a		Curtis Creek	8,103		Y	Y	N	N
n/a		Drinkwater, 2-20	6,044		Y	Y	N	N
n/a		Griffin Creek	5,223		Y	Y	N	N
n/a		Jackass Butte	16,774		Y	N	N	N
n/a		Jack Mountain	11,761		Y	N	N	N
n/a		Midnight Point Unit (S-67)	5,520		Y	Y	N	N
n/a		Rock Creek	5,576		Y	Y	N	N
n/a		Round Top Butte Unit (S-6SA)	18,057		Y	Y	N	N
n/a		Dry Lake Unit (Sheep Lake Subunit 2-49C)	26,412		Y	N	N	Y
n/a		Skull Creek Unit (2-18G)	7,315		Y	N	N	N
n/a		Stinkingwater	11,153		Y	Y	N	N
n/a		Stockade Unit (Subunit 2-1M)	11,939		Y	Y	N	N
n/a		Visher Unit (Number 06-02)	6,473		Y	Y	N	N
n/a		West River Breaks	6,265		Y	Y	N	N
Total ONDA Acres	947,825	TOTAL BLM LWC ACRES:	53,159					
		TOTAL BLM ROADLESS ACRES:	787,883					
		Acres not evaluated by BLM:		405,758				
		ROADLESS NATURAL AREAS:	566,314					
Note: On its inventory website, the Bureau no longer includes evaluation forms for its West Warm Springs Units 1 and 26.								

and identify (but never disclose publicly) more than half a million acres of Roadless Natural Areas. **Table 3** (showing Bureau identified 566,314 acres of such areas in the Three Rivers Resource Area).

Notably, the Bureau also has yet to prepare a land use plan or plan amendment for the Three Rivers Resource Area to consider how to manage wilderness values within that 1.7 million acre planning area. Management there is still guided by the Three Rivers RMP, prepared more than three decades ago (BLM 1992). In that plan, the Bureau had eliminated consideration of wilderness values because its statewide wilderness study was still ongoing in the late 1980s and early 1990s. Three Rivers RMP at 1-7; *see also id.* at 1-3 (“The wilderness study process has been ongoing since 1979 and is beyond the scope of this RMP effort.”). The Three Rivers RMP was intended to guide “allocation of resources . . . over the next 10 to 20 years” following its approval in 1992. Three Rivers RMP at 1-3. This outdated analysis—lacking direction for hundreds of thousands of acres of wilderness lands—remains the operative plan for the Three Rivers Resource Area today.

Finally, the outdated Three Rivers RMP does not contain a travel plan. Again, the absence of such a baseline for determining the locations of roadless areas, against which to measure impacts of land use and management actions, undermines the Bureau’s stewardship of almost two million acres of public land in the heart of Oregon’s high desert.

ARGUMENT

Lands with statutorily defined wilderness characteristics are among the most important of public lands resources. These fragile and finite areas provide exceptional opportunities for solitude and quiet recreation. In southeastern Oregon in particular, they encompass some of the most biologically significant sagebrush landscapes remaining in North America. If managed to preserve wilderness values, these places can sequester carbon and provide crucial climate resiliency in the face of earth’s rapidly changing climate (Kauffmann *et al.* 2022).

The Bureau has the authority and the obligation to consider and manage for wilderness values on the public lands. *ONDA v. Bureau*, 625 F.3d at 1112; *see* 43 U.S.C. §§ 1711(a), 1712(a), 1712(c)(4). The agency is in the process of doing just that for 4.6 million acres of public land on the Vale District and 3.2 million acres of public land on the Lakeview District, and has already completed the task for more than 300,000 acres of public land on the Prineville District. The Bureau has failed, however, to update its wilderness inventory and management direction for 3.4 million acres of public land on the Burns District.

Statutory and regulatory requirements, underscored by policy guidance and significant new ground-based information, counsel in favor of the Bureau updating its wilderness inventory and management on the Burns District—eliminating inconsistency and providing not just for informed land management, but for management that avoids “permanent impairment” of the environment and that “will preserve and protect certain public lands in their natural condition.” 43 U.S.C. §§ 1701(a)(8), 1702(c).

I. THE BUREAU SHOULD UPDATE ITS WILDERNESS DETERMINATIONS AND LAND USE PLANS FOR THE BURNS DISTRICT.

On Steens Mountain, the Andrews Management Unit, and the Three Rivers Resource Area, which together comprise the Burns District in southeastern Oregon, the Bureau’s wilderness determinations are outdated and inaccurate, and its land use plan decisions for these areas therefore fail to consider how to manage nearly 1.3 million acres of wilderness-quality public lands currently unrecognized by the Bureau.

- **First, a wilderness update is necessary as a matter of law and policy.** The Bureau last conducted inventories for these areas at a time when the Department of the Interior, through the Utah settlement, had repudiated its legal obligation to consider

public land wilderness values on a continuing basis and rescinded the Bureau's wilderness inventory handbook and manual. The existence of new policy governing how the Bureau identifies and manages wilderness values on public lands requires amendment or revision of these land use plans.

- **Second, a wilderness update is necessary to ensure consistent management across land use planning areas.** In line with federal laws requiring the Bureau to maintain a current and accurate inventory of wilderness values on the public lands, Bureau policy is designed to ensure consistent management from one district to the next. The Burns District's treatment of lands with wilderness values is far out of step with every other Bureau district in southeastern Oregon.
- **Third, a wilderness update is necessary because the Bureau's wilderness inventory information is outdated and inaccurate.** The Burns District's route and wilderness inventory information, and the agency's resulting determinations rejecting surveys of more than a million acres of wilderness lands, are decades old. In the Steens Mountain and Andrews Management Unit areas, the agency conducted a largely office-based inventory 20 years ago and has never established the physical condition of motorized routes—the threshold factor for identifying the presence or absence of wilderness. In the Three Rivers Resource Area, the agency has never completed a travel management plan or incorporated any wilderness findings into its land use plan that was adopted 30 years ago.
- **Fourth, a wilderness update is necessary because new information further highlights the inaccuracy of the Burns District's wilderness determinations.** Ground-based evidence submitted by the public, collected and presented in accordance

with Bureau policy, underscores the unreliability of the agency's decades-old information and determinations across the Burns District. Ongoing surveys continue to corroborate these published, independent public findings compiled over the past twenty years.

- **Finally, a wilderness update is essential to protect long-term ecological integrity, bolster climate resiliency in essential wildlife habitats, and provide indispensable landscape-scale protection.** The public lands in southeastern Oregon contain crucial wildlife migratory corridors and some of North America's most intact remaining sagebrush steppe. The sagebrush biome is home to more than 735 species of plants, vertebrates, and invertebrates in the Great Basin alone. But this ecosystem is among the most imperiled in North America, suffering both from continued loss and fragmentation of habitat and from inadequate conservation planning and management. Identifying and preserving significant roadless areas on this landscape can contribute to the vital goal of protecting 30% of American lands and waters by the year 2030.

ONDA addresses each of these points in turn in the sections that follow.

A. An Update to the Bureau's Wilderness Determinations and Land Use Plan Prescriptions is Necessary to Apply New Policy, Consistent with Long-Standing Existing Law, on Wilderness Management.

FLPMA requires the Bureau to “develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands.” 43 U.S.C. § 1712(a); *see also ONDA v. Bureau*, 625 F.3d at 1098–99 (describing land use planning under FLPMA). To inform land use planning, the Bureau must “prepare and maintain” a “current” inventory of “all public lands and their resource and other values (including . . . outdoor recreation and scenic values),

giving priority to areas of critical environmental concern.” 43 U.S.C. § 1711(a).

The Bureau must manage the public lands “in accordance with” these land use plans. *Id.* § 1732(a). In developing the plans, the Bureau must rely on an up-to-date “inventory of the public land, their resources, and other values.” *Id.* § 1712(c)(4). Consistent with these statutory requirements, the Bureau must, under its land use planning regulations, amend or revise land use plans when there is new information or a new or revised policy.

An amendment *shall be initiated* by the need to consider monitoring and evaluation findings, new data, *new or revised policy*, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan.

43 C.F.R. § 1610.5-5 (emphases added); *see also id.* § 1610.5-6 (“A resource management plan shall be revised as necessary, based on monitoring and evaluation findings (§ 1610.4–9), new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan.”).

Here, the Bureau completed wilderness determinations for Steens Mountain and the Andrews Management Unit in 2003 and for the Three Rivers Resource Area in 2010—all at a time when the Department of the Interior, through the Utah settlement, had repudiated the agency’s obligation to inventory for and manage wilderness characteristics outside of existing WSAs and Wilderness. Through the Utah settlement, the Bureau adopted the position that wilderness review was a “one-time” obligation that had ended in 1991. *See ONDA v. Bureau*, 625 F.3d at 1111. Only after ONDA prevailed in the SEORMP and Lakeview RMP litigation did the Bureau, in 2012, readopt long-standing wilderness policy, reinstating manuals on

“Conducting Wilderness Characteristics Inventory on BLM Lands” and “Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process” (BLM 2012a, 2012b). The Bureau reaffirmed those policies in updated manuals in 2021 (BLM 2021a, 2021b).

The Bureau has never applied its 2012 and 2021 wilderness guidance to the public lands on the Burns District. Rather, the Bureau only conducted a couple disparate, non-public, *ad hoc* exercises during a time when the agency had no department-level guidance to direct its work. On the Andrews Resource Area, in 2003, the Bureau filled out a series of perfunctory checklist forms. The forms consist of five yes/no questions checked off by staff. They include no narrative descriptions, no route analysis forms or photographs to document supposed unit boundaries, and no maps. See **Appendix C** (2003 Evaluation Forms). As described, the Bureau also conducted no ground-based field work to support those in-office determinations. As a result, the Burns District rejected 99% of the public lands identified and documented in detail in the ONDA reports (ONDA 2002a, 2002b) as meeting the statutory definition of wilderness.

The Bureau updated its wilderness inventory findings on the Three Rivers Resource Area in 2009 and 2010. As with the Steens and Andrews areas, this was during the Utah settlement period and prior to the department’s adoption of the 2012 wilderness policy direction. This time, the Bureau used forms based on temporary “Oregon State Office Internal Guidance as of July 2007.” See *supra* n.9. The forms were similar to those later established in the 2012 and 2021 manuals, and the Bureau here did more than merely check off the yes/no questions—for example, it included narrative explanations of citizen (public) information received and the agency’s assessment of that information. Even so, to date the Bureau has not published any of its supporting photographs, referenced as “on file” in the Wilderness Inventory Maintenance forms. The inventory forms do not indicate that the Bureau completed Route Analysis Forms or Photo Logs as required

under both prior and current guidance (BLM 2021a). And the inventory forms are not always accompanied by maps depicting unit boundaries and photo points.

The Bureau has an obligation to “prepare and maintain on a continuing basis an inventory” of public land resources, including wilderness character, which “shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.” 43 U.S.C. § 1711. The Bureau has neglected this obligation to maintain a current inventory of wilderness values for over ten years in the Three Rivers Resource Area and for nearly twenty years in the Andrews Management Unit and the Steens CMPA. The Bureau has never had complete and accurate management plan direction for lands with wilderness characteristics in these areas.

By failing to gather adequate baseline information and failing to apply a consistent methodology from one resource area to the next—mainly as a result of being hamstrung in a policy void following the unlawful Utah settlement—the Bureau has violated the “basic rule” of administrative law that an agency must explain itself. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1909 n.3 (2020). The Bureau’s Bush administration decision to abandon decades of departmental policy and then decree that millions of acres of wilderness-quality lands inventoried by the public do not, in fact, meet the definition of a wilderness, runs counter to established Supreme Court precedent. *See Rose*, 921 F.3d at 1189–90 (citing and quoting *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016), *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009), and *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 982 (2005), all of which describe an agency’s legal obligations when there are policy changes).

Accordingly, to comply with its statutory obligation to maintain a current wilderness inventory on a continuing basis, and to bring the Burns District’s inventory into compliance with current departmental

guidance, the Bureau should update and verify its wilderness inventory and determinations, and amend or revise its Burns District land use plans based on “new or revised policy” in the agency’s 2012 and 2021 wilderness policy guidance. 43 C.F.R. §§ 1610.5-5, -6 (land use plan amendment and revision requirement).

B. A Wilderness Update is Necessary to Ensure Consistent Management from One District to the Next.

Pursuant to FLPMA and the Wilderness Act, and in response to the Ninth Circuit’s opinion in *ONDA v. Bureau*, the Department of the Interior adopted guidance in 2012 for the Bureau’s inventory and management of wilderness character lands outside of existing Wilderness and WSAs (BLM 2012a). The Bureau updated the manual last year (BLM 2021a), reaffirming and continuing to recognize that “[m]anaging the wilderness resource is part of the BLM’s multiple use mission” and that “[l]ands with wilderness characteristics provide a range of uses and benefits in addition to their value as settings for solitude or primitive and unconfined recreation.” BLM 6310 Manual at 1-1.

The Bureau’s manuals require the agency to be consistent from one area to the next. In the 6320 Manual (BLM 2012b, 2021b), which governs consideration of wilderness characteristics in land use planning, the BLM Director must “[c]oordinate with State Directors on considering and, as warranted, protecting lands with wilderness characteristics in land use plans.” BLM 6320 Manual at 1-2. Similarly, the 6310 and 6320 manuals both require that the State Director provide “statewide program coordination” and “guidance.” BLM 6310 Manual at 1-1; BLM 6320 Manual at 1-2. The State Director also must provide support to District and Field Offices “to ensure lands with wilderness characteristics and potential resource conflicts are adequately analyzed.” BLM 6320 Manual at 1-2. There is a clear expectation of state-level oversight, coordination, and support to ensure consistent application of policy across agency administrative unit boundaries.

The requirement for “statewide program coordination” is at the heart of ONDA’s concerns. It is no surprise that the Burns District’s wilderness findings are so starkly different compared to the neighboring Lakeview, Vale, and Prineville districts. While these other districts followed the inventory and land use planning procedures established in the Bureau’s 2012 manuals and carried into the 2021 manuals, the Burns District, constrained in a policy void and inconsistent with the Bureau’s clear obligation under FLPMA to identify and manage wilderness values like any other resource on the public lands, followed a different process. *See Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 328 (2014) (“We reaffirm the core administrative-law principle that an agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate.”). Three of the Bureau’s districts in southeastern Oregon have complied with the FLPMA obligation to prepare and maintain a current inventory of wilderness values, and to rely on that inventory in land use planning. 43 U.S.C. §§ 1711(a), 1712(c)(4). The Burns District has not.

The 6310 Manual describes that the Bureau’s inventory documentation for each wilderness unit must include: (1) an “Inventory Area Evaluation,” which consists of one form documenting the agency’s previous inventory findings on record and a second form documenting current conditions; (2) a “Route Analysis” form for each route in the inventory unit; (3) inventory maps for every inventoried unit; (4) ground-based photographs and an accompanying photo log; and (5) additional supporting documentation, including notes, forms, and documents. BLM 6310 Manual at A-1. “It is essential that an adequate record of the inventory and subsequent updates be maintained to ensure proper documentation of inventory findings, including relevant narratives, maps, photographs, new information, and any other relevant information.” BLM 6310 Manual at 1-3.

The Burns District has never followed that process. For Steens Mountain and the Andrews Management Unit, the agency’s perfunctory

Citizen Proposal Evaluation Forms, completed in 2003, consist merely of a checklist marked by staff. There are no narrative descriptions as required by department policy prior to 2002 and since 2012. There are no route analysis forms or photographs. There are no maps. And there is no additional supporting documentation. The 24 forms contain little more than checkmarks next to five yes/no questions, followed by a series of agency staff signatures. *See Appendix C.*

On the Three Rivers Resource Area, the Bureau in 2009 and 2010 used forms that are closer to the ones later adopted by the Bureau in 2012. But again, they include no supporting photographs and no Route Analysis Forms or Photo Logs, and they occasionally lack maps depicting unit boundaries or fail to identify inventory photo locations. And the Bureau has never incorporated any Three Rivers wilderness findings into that area's outdated 1992 land use plan or to any travel plan (because one does not exist for that resource area).

The Bureau later completed route evaluation forms for some (but not all) of the routes on Steens Mountain as part of the travel planning process for the CMPA. But that information has since been invalidated because the Bureau failed to establish “the physical condition of the routes” and failed to “use *any* method or estimate—aside from making generic statements about roads in the Steens Mountain area—to establish baseline conditions.” *Rose*, 921 F.3d at 1190; *see also infra* Agmt. Sec. I.C.

In any event, none of the Bureau's route inventories developed during the 2007 Travel Plan or 2015 Recreation Plan processes for Steens Mountain were before the agency in 2003 when it rejected more than half a million acres of wilderness lands identified in the ONDA reports. Even the Bureau's travel plan route inventory consisted only of a smattering of hand-drawn maps and incomplete sets of field notes.

A reviewing federal district court described the Bureau's route inventory methodology and results as so “incomplete and scattershot”

that it was impossible to discern any rational basis to uphold the agency's plan. *McDaniel*, 2011 WL 1654265, at *10, *13, *17, *21–23. The court criticized as “arbitrary and capricious” the Department of the Interior’s “failure to analyze *the only visual evidence in the record* [the reports supplied by ONDA] of the actual condition of routes.” *Id.* at *23 (emphasis added); *see also id.* at *22 n.14 (“the paucity of BLM’s route inventory documentation provided in the record makes it almost impossible for the court or any reviewing body to examine BLM’s route determinations on an individual basis”).

On the Three Rivers Resource Area, the Bureau has *never* maintained and updated its route inventories or wilderness determinations since completing the 2009 and 2010 determinations—not even since completing dramatically different inventories and determinations under the agency’s new 2012 wilderness policies on the neighboring Vale and Lakeview districts. In fact, the Burns District has never even completed a travel plan for the 1.7-million acre Three Rivers Resource Area. For none of the public lands it manages does the Burns District have a “current” inventory of roadless areas and lands with wilderness character, as FLPMA requires.

Finally, the 2010 Settlement Agreement (**Appendix A**) expressly highlights the Bureau’s goal of “ensur[ing] maximum consistency among the BLM Districts and Field Offices.” Settlement Agreement ¶ 23 (also describing a “calibration workshop” and other “field calibration sessions” open to the public and invited experts); *see also id.* ¶ 17 (requiring State Office to issue “State Director Guidance” that applies to both “the Southeastern Oregon and Lakeview RMP amendments that includes the direction to use information from inventory updates to support the amendments”). While the litigation was about the Southeastern Oregon and Lakeview land use plans, the Agreement specifically calls for the State Director to issue guidance “that provides *consistent direction* . . . regarding management of ORV, travel, and transportation.” *Id.* ¶ 26 (emphasis added).

In 2010, the Bureau held a Wilderness Inventory Calibration Meeting in Prineville, Oregon. The agency met in the field with district wilderness/planning representatives, State Office wilderness/recreation staff, and representatives of Oregon Cattlemen’s Association and ONDA. The purpose of the meeting was “to discuss the inventory process and guidance being used *to insure that wilderness inventories conducted by different districts were being conducted in accordance with state/national inventory policy.*” Email from Brent Grasty, Vale District Planner, Vale District BLM, to Gerald (Jerry) Magee *et al.*, BLM (Feb. 1, 2016) (“SEO and Lakeview RMP Briefing – Impact of GRSG Decision on 9th Circuit Settlement Agreement”) (emphasis added).

The State Director subsequently commissioned an independent team to review the Vale and Lakeview districts’ wilderness inventory process and documentation. The ensuing report (**Appendix E**) was completed in 2015 and released to the public the following year (BLM 2015b).¹⁰ It identified a few problems with the Bureau’s inventory process, which the Bureau has undertaken to address in the ongoing Lakeview RMP plan amendment process. Many of those identified problems are also rife throughout the Burns District’s outdated wilderness determinations for the Steens Mountain and Andrews Management Unit areas and the Three Rivers Resource Area—though the Bureau has never addressed them on that district:

- *Insufficient Field Analysis:* The 2015 review team examined about 30% of the inventory units on both the Vale and Lakeview districts and ground-truthed about 5% of the units, to evaluate the Bureau’s inventory results for accuracy and consistency of application of law and policy. As noted, the Burns District conducted *no* ground-based inventories in support of its 2003 determinations. It is impossible to assess solitude and naturalness

¹⁰ The report is also available at www.blm.gov/or/resources/nlcs/files/wcireview.pdf.

from merely reviewing maps in an office. Merely driving along boundary roads is likewise insufficient. These already-disturbed places are where most evidence of human activity occurs—things like powerlines, vegetation treatments, water developments, fences, and so forth. They are not representative of the vast roadless areas contained *inside* those boundary roads. This problem is particularly acute with regard to large units that are 10,000 and 20,000 acres or more, where outstanding opportunities for solitude or primitive and unconfined recreation are greatest the farther one gets from boundary roads.

- *Photographic Documentation:* A major shortcoming identified by the reviewers is that the Bureau had failed to include sufficient photographic evidence to support its findings on the Lakeview District—particularly its negative, or “no wilderness,” findings—with regard to naturalness, solitude, and recreation. A Bureau finding of “no solitude” or “not natural” for a 25,000-acre unit, based only on a smattering of photographs taken from vehicle windows on boundary roads, is unreliable and arbitrary. The Bureau fixed that issue on the Lakeview District once it was brought to their attention. The Bureau’s 2003 wilderness determinations for Steens Mountain and the Andrews Management Unit contain no photographs at all. And the agency’s 2009–2010 determinations for the Three Rivers Resource Area contain references here and there to “BLM photo points,” but no photographs are included with the determinations and, in any event, it is unclear whether the references are simply to older photographs on file or to information gathered during the 2009–2010 process.
- *Future Maintenance:* Speculation about future maintenance is not a valid factor in determining whether a route is a “road” or a “way” (primitive route) for wilderness inventory purposes (BLM

2021a). The Burns District has asserted that routes are roads so long as they “would be maintained in the future” if they “became impassable” or “if needed.” But the Bureau’s current manual (BLM 2021a) explains that “routes constructed by mechanical means but that are no longer being maintained by mechanical methods are not wilderness inventory roads.” BLM Manual 6310 at 1-14; *see also Rose*, 921 F.3d at 1190 (where Burns District arbitrarily assumed “roads” were present although it had failed to establish “the physical condition of the routes” on the ground).

That is the case in most instances where ONDA photographs show routes that are not being maintained (ONDA 2022). These go well beyond routes that “to date ha[ve] not needed any further mechanical improvement or maintenance to facilitate the relatively regular and continuous passage of vehicles.” BLM Manual 6310 at 1-14 to 1-15. As a result, *for wilderness inventory purposes*, the types of obscure and nonexistent routes documented in the ONDA reports are ways, not roads (ONDA 2002a, 2002b, 2022). Although the Burns District’s truncated 2003 evaluation forms are silent on this point, any reliance on speculative future maintenance in such instances is inconsistent with the Bureau’s current policy (BLM 2021a).

In one example on the Lakeview District, the Bureau’s independent reviewers in 2015 found (p. 29) a route does not “pass the maintenance test” where, if access were ever needed, for example, to maintain fences or reservoirs, “it could be accomplished without [mechanical] maintenance since the flat terrain and lack of rocks precludes the need for maintenance” (BLM 2015b). This indicates that the Bureau must, in its wilderness inventory updates, identify whether any potential future maintenance would necessarily have to be via mechanical means or, instead, whether *non-mechanical maintenance would*

suffice. This is a crucial distinction never addressed on the Burns District's 2003 or 2009–2010 forms.

This is a particularly important point to consider with regard to many routes that cross large or rolling sagebrush flats, particularly in the Three Rivers Resource Area. In these places, many routes could, if necessary, be (re)made to be passable simply by moving rocks by hand or with hand tools rather than undertaking blading or other mechanical maintenance.

- *Outside Sights and Sounds*: The independent review team cited the Bureau inventory manual's explanation that "outsight sights and sounds" undermine solitude *only* if they are "pervasive and omnipresent." See BLM 6310 Manual at 1-11. The manual does not provide examples on this point. Some of the sights and sounds cited by the Bureau are more convincing than others—*e.g.*, compare a utility-scale powerline to low-lying barbed-wire fencing, or a major interstate highway to a rural state route or gravel road adjacent to a roadless area. In its 2003 and 2009–2010 forms, the Burns District provided no rational explanations for carving out such sights and sounds from the larger of the publicly identified wilderness areas.
- *Inclusion of Distance (Large Size) in Assessing Solitude*: The independent review team criticized the Bureau for failing to consider that a unit that lacks spectacular vegetative screening or topographic relief can still provide outstanding opportunities for solitude based on its sheer size. This is true of ONDA-proposed units like Ancient Lake (36,372 acres), Alvord Lake (35,722 acres), Blackpoint (81,454 acres), Buzzard Creek (462,828 acres), Keg Springs (180,022 acres), and other very large roadless areas (ONDA 2007, 2002b, 2002a).

- *Facility Asset Management System (FAMS)*: The independent review team commended the Vale District for ignoring routes' FAMS designations and criticized the Lakeview District for relying on such designations. A route's assigned maintenance level in a Bureau database or transportation plan is not a valid factor in determining whether it is a road or a way for wilderness inventory purposes. Maintenance level assignments have nothing to do with a route's present, on-the-ground condition and whether there is evidence of mechanical improvement and maintenance today (BLM 2021a). Such justification is arbitrary for the same reason as speculation about future maintenance, and the Burns District repeated this error time and again in its 2003 and 2009–2010 wilderness determinations.
- *Motorized Recreation Bias*: The independent review team noted that documenting *present* visitor use is not necessary for evaluating opportunities for primitive and unconfined recreation. Therefore, ONDA does not in its reports—and the Bureau should not in its evaluations and determinations—require “proof” that such recreation is presently happening. What is important under governing Bureau policy (BLM 2021a) is only that such outstanding *opportunities* exist. See BLM Manual 6310 at 1-10 (“Determine if the area has outstanding *opportunities* for solitude or a primitive and unconfined type of recreation.”) (emphasis added).
- *Traffic*: The review team noted that “traffic” on interior primitive routes is unlikely to be a legitimate reason to support a “no solitude” finding in these very remote places. In its NEPA review for the 2015 Recreation Plan for Steens Mountain, the Burns District explained that

currently the greatest quantity of trips anywhere in the CMPA is on the North Loop Road with 0.92 trips per hour during the busy season[]. This shows that the *most heavy* use is less than one trip per hour. The level of use on even the busiest of the secondary and primitive roads in Burns District (extrapolated from road counter data on the Andrews/Steens Resource Area) has less than one vehicle pass per hour.

In other words, the Burns District has already found that routes on Steens Mountain and surrounding areas are far from busy.

- *Disclose and Discuss:* Under NEPA, an agency must disclose and discuss “all major points of view on the environmental impacts of the alternatives including the proposed action” including information that is different from or undermines the agency’s findings or position. 40 C.F.R. § 1502.9(b). The independent review team observed that in some cases the Bureau only briefly acknowledged receiving ONDA information, but included “little or no evidence . . . regarding how the information was considered.” This was certainly the case with the Burns District’s 2003 forms, which provide no description or analysis whatsoever of the ONDA inventory information. The Bureau must do more than simply say that “information was received” and “we disagree with it.”
- *Comparison:* The independent review team explained that comparison of one potential wilderness character area against other areas in a Bureau district is not a valid approach. This problem was pervasive in the Lakeview District wilderness evaluations, which that district then fixed. The review team also explains (p.13) that “[e]ntire landscapes can be judged as providing outstanding opportunities (e.g., large lava beds that provide for lava tube exploration and geologic study, or trophy

mule deer or bighorn sheep hunting areas), and the inventory units within them can claim their share of those outstanding opportunities.” *See also* BLM Manual 6310 at 1-10 (“While the term ‘outstanding’ implies some degree of comparative analysis, do not interpret that to mean that only one area will meet that requirement by standing out in comparison to all other areas.”). This certainly is true of Steens Mountain, which is recognized as an important component of the National Landscape Conservation System.

In sum, current Bureau policy, the letter and spirit of the 2010 Settlement Agreement, and the findings and recommendations of the agency’s own independent wilderness review team all highlight why and how the Bureau must ensure that its wilderness findings and management planning are consistent from one area to the next in order to satisfy its legal obligations under FLPMA and other laws.

C. A Wilderness Update is Necessary Because the Bureau’s Inventory Information is Outdated and Inaccurate.

To satisfy its duties under FLPMA to manage for multiple use and sustained yield, to preserve certain public lands in their natural condition, to prevent unnecessary or undue degradation of the lands, to prevent permanent impairment of lands and resources, and to manage the lands consistently with governing land use plans, the Bureau must “prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values” and keep that inventory “current so as to reflect changes in conditions.” 43 U.S.C. § 1711(a); *see also id.* §§ 1701(a)(8), 1702(c), 1712(a), 1732(a), 1732(b). If the Bureau does not have up-to-date information, the agency must “arrange for [it] to be collected.” 43 C.F.R. § 1610.4-3; *see, e.g., ONDA v. Bureau*, 625 F.3d at 1121–22 (holding land use plan decision unlawful where Bureau failed to consider impacts to wilderness like any other value or resource

on the public lands); *Ctr. for Biol. Diversity v. Bureau of Land Mgmt.*, 422 F. Supp. 2d 1115, 1126, 1166 (N.D. Cal. 2006) (land use plan unlawful where Bureau failed to take a hard look at impacts on species present in planning area, relying on “outdated and inadequate inventories”).

Although the public may provide inventory information to the Bureau at any time (BLM 2021a), it is ultimately the agency’s responsibility to ensure it has accurate and up-to-date information. As one district court explained, “Whether or not ONDA’s inventory was complete or not is not the point. ONDA did not have a responsibility to provide accurate information regarding any changes to the wilderness characteristics in the East-West Gulch before the [Environmental Assessment] was issued. BLM did.” *Rasmussen*, 451 F. Supp. 2d at 1212–13; *see also* BLM 6310 Manual at 1-3 to -5 (describing that the Bureau must review “wilderness characteristics information submitted by the public” and outlining the “minimum standard” of documentation for public submissions—which ONDA has met and exceeded in every report submitted to the Bureau since 2002).

Here, it has been more than a decade since the Bureau last updated its wilderness determinations on the Three Rivers Resource Area and two decades on the Andrews Management Unit and Steens Mountain CMPA. In addition to changes in policy since those wilderness reviews, public-generated information calls into question the Bureau’s “no wilderness” determinations throughout the 3.4 million acres of public land managed by the Burns District. *See Figs. 1, 2 and Tables 1, 2, 3.*

In 2019, the Ninth Circuit held that the Bureau’s travel plan for Steens Mountain was unlawful because the agency failed to establish the actual, physical condition of designated routes and failed to use any method or estimate to assess routes. *Rose*, 921 F.3d at 1190. As the district court had found earlier in the case, in 2011, the Bureau’s route inventory was “incomplete and scattershot.” *McDaniel*, 2011 WL

1654265, at *22. It consisted of a patchy set of field notes from 2003 to 2005; a series of hand-marked, often illegible, field maps; a “single model transportation inventory form”; and various maps submitted by local landowners. *Id.*

Establishing the physical condition of routes is essential for a defensible wilderness inventory and wilderness character determination. As the Ninth Circuit has explained, based on the definition of “wilderness” established by Congress in the Wilderness Act, “the BLM has long treated the presence of roads as cancelling out any other wilderness characteristics an area might otherwise have, as they defeat the ‘natural conditions’ wilderness characteristic.” *ONDA v. Bureau*, 625 F.3d at 1107. Indeed, “roadlessness alone may require NEPA consideration in some circumstances.” *Id.* at 1117. “If an inventory area does not meet . . . the size criteria, it does not contain wilderness characteristics. Further inventory activity to document naturalness, outstanding opportunities for solitude or a primitive and unconfined type of recreation, and supplemental values is unnecessary.” BLM 6310 Manual at 1-8.

In other words, without knowing the actual, physical condition of the routes on the lands it manages (as the Ninth Circuit found was the case on Steens Mountain), the Bureau, by definition, currently does not have a valid wilderness inventory—and, ultimately, lacks a valid basis for its 2003 wilderness determinations. 43 U.S.C. § 1711(a). This applies with even more force on the Three Rivers Resource Area, where the Bureau has *never* completed a route inventory and travel or transportation plan before or after adopting its 1992 land use plan for that area.

In *Rose*, the Bureau argued that ONDA’s concerns had already been resolved in an earlier challenge to the agency’s land use plans for the Steens Mountain area. The Ninth Circuit rejected this argument when it declined to address it in 2019. *See Rose*, 921 F.3d at 1190–91 (vacating Travel Plan because Bureau had failed to establish “physical

condition” of routes on Steens Mountain and failed to “use *any* method or estimate” to establish baseline conditions).

The question in the earlier case was whether the Bureau had correctly followed *NEPA’s procedural requirements* in preparing two land use plans. *Shuford*, 2007 WL 1695162, at *6–8. The substantive merit of the Bureau’s 2003 wilderness determinations was not at issue—only whether the Bureau had followed a correct procedure during the land use planning process. *Or. Nat. Desert Ass’n v. McDaniel*, No. 08-35942, 2010 WL 5018556, at *1 (9th Cir. July 12, 2010) (unpublished memorandum disposition holding that Bureau “satisfied NEPA by taking a ‘hard look’ at the RMP’s effect on wilderness resources”). And again: that land use planning process occurred during the period when the Bush administration had rescinded the Bureau’s wilderness inventory handbook guidance—thus improperly skewing the environmental baseline the agency would have considered during that process.

The Ninth Circuit did not disturb the district court’s holding that the Bureau’s accompanying Transportation Plan *was unlawful* because—like the later Travel Plan and Recreation Plan that purported to supplement the Transportation Plan—it was based on an incomplete route inventory. *See Shuford*, 2007 WL 1695162, at *17–18 (holding the Transportation Plan was not “comprehensive” because “specific field inventories” and “need determinations” had yet to be accomplished); *see also* 16 U.S.C. § 460nnn-22(a) (Steens Act requirement that Bureau complete a “comprehensive” transportation plan as an “integral part” of the governing land use plan).

As a result of these court holdings—that the Bureau’s 2005 Transportation Plan, 2007 Travel Plan, and 2015 Recreation Plan all were invalid because each was based on incomplete route inventories—the Bureau’s wilderness determinations, last updated in 2003 and based on the same (or fewer) incomplete route inventories, are indefensible. Again, because the presence or absence of roads is the

threshold finding for making a wilderness determination, the Bureau's failure to establish this key factor for lands in the Steens Mountain area leaves the agency's wilderness determinations without a reasonable basis in fact. *See ONDA v. Bureau*, 625 F.3d at 1107 (the "presence of roads . . . cancel[s] out any other wilderness characteristics an area might otherwise have").

Finally, the Bureau has *never* completed a route inventory or travel plan of any sort for the Three Rivers Resource Area. *See Rasmussen*, 451 F. Supp. 2d at 1213 ("The court finds BLM did not meet that obligation by relying on the one-time inventory review conducted in 1992. Such reliance is not consistent with its statutory obligation to engage in a *continuing* inventory so as to be *current on changing conditions and wilderness values*. 43 U.S.C. § 1711(a).") (emphases added).

A travel plan is an integral part of land use planning. The Bureau's travel management handbook (BLM 2012c) makes clear that the agency should consider and begin the process of travel planning in "the pre-planning phase" of a land use plan revision. Accurate route inventory and data gathering is essential. Here, the governing land use plans were adopted in 1992 (Three Rivers) and 2005 (CMPA and AMU). There has been more than enough time to complete the travel planning process for each of these areas.

The Bureau's handbook explains that "possible reasons" for not completing a travel management plan concurrently with a land use plan "might be size or complexity of the area, controversy, incomplete data, or other constraints" (BLM 2012b). None of those reasons are present here. The Bureau's decades-long delay in preparing crucial travel plans is unreasonable and, therefore, unlawful. *See Brower v. Evans*, 257 F.3d 1058, 1068 (9th Cir. 2001) (adopting the six-factor test for claims asserting unreasonable delay under the APA, outlined in *Telecommc'ns Res. & Action Ctr. v. F.C.C.*, 750 F.2d 70 (D.C. Cir. 1984) ("*TRAC*"). The Ninth Circuit has explained that the first *TRAC*

factor—the time agencies take to make decisions, which is governed by a “rule of reason”—is the most important. *In re A Cmty. Voice*, 878 F.3d 779, 786 (9th Cir. 2017) (citing *In re Core Commc’ns, Inc.*, 531 F.3d 849, 855 (D.C. Cir. 2008)). There is nothing reasonable about the Bureau’s decades-long delays in preparing travel plans for the Three Rivers, Andrews Management Unit, and Steens Mountain land use planning areas. These delays undermine informed land management and hinder the Bureau’s ability to preserve wild places, unfragmented habitat, and climate change-resilient landscapes.

D. A Wilderness Update is Necessary Because Significant New Information Documents More than 1.3 Million Acres of Lands with Wilderness Character Not Currently Recognized by the Bureau’s Burns District.

As described above, in 2002, ONDA inventoried about 750,000 acres of public land on and around Steens Mountain and identified 568,313 acres, in 24 separate roadless areas, that possessed the statutorily defined characteristics of wilderness (ONDA 2002a, 2002b). **Table 2.** In 2007, ONDA inventoried about 1.5 million acres of public land in the greater Harney Basin area that envelops much of the Three Rivers Resource Area. There, ONDA identified 751,810 acres of wilderness lands in 15 separate roadless areas (ONDA 2007). **Table 3.**

In 2020 and 2021, ONDA re-surveyed the entire Burns District, reviewing its prior work and the Bureau’s intervening evaluations. On Steens Mountain, ONDA inventoried 358 miles of routes and took thousands of new photographs (ONDA 2022).¹¹ On the Three Rivers Resource Area, ONDA’s new report (in process) documents 22 wilderness character units totaling about 770,000 acres of wilderness.

¹¹ A further wilderness report is forthcoming for the Steens Mountain and Andrews Management Unit areas, based upon the comprehensive route inventory data presented in this 2022 report. See ONDA (2022).

This includes the massive Buzzard Canyon roadless area, a collection of seven recognized LWCs that total 190,411 acres (a small portion of which overlaps with the Lakeview District). As was true twenty years ago, ONDA's reports are the most detailed and comprehensive, ground-based wilderness inventories in existence for Burns District public lands.

For all of its inventories, ONDA survey teams followed Bureau protocols and drove or walked every boundary and internal route in each identified roadless area. They photographed routes at both ends and in the middle, rather than relying on assumptions or satellite photographs. And they documented natural qualities, opportunities for solitude and primitive recreation, and supplemental values, both through ground-based photographs and through detailed narratives citing reliable sources.

ONDA applied the Bureau's own, long-established and published methodology (BLM 2001, 2012a, 2021a) and included every element that the agency has instructed must be included in a public inventory submission. As noted, although the Bureau rescinded its wilderness inventory manual in 2002, the agency reinstated it a decade later (BLM 2012a), and it remains in force today, as updated (BLM 2021a). In all pertinent respects, the 2021 manual is consistent with the 2012 and 2001 manuals (and the original 1978 inventory manual).

As a result, ONDA's route and wilderness inventory reports are reliable sources of information. In fact, the ONDA reports are *more* reliable than the Bureau's wilderness reviews on the Burns District. *See McDaniel*, 2011 WL 1654265, at *22 (describing how the ONDA reports were the most comprehensive and reliable of the information before the Bureau in 2011). The Burns District conducted its reviews in the absence of any inventory manual, at a time when the department had repudiated its obligation to consider wilderness values as part of its multiple-use mission. As noted, the Bureau's reviews for the Steens Mountain area (BLM 2003) lack most of the information the agency

itself has required for more than 40 years (BLM 1978) and continues to require under current guidance (BLM 2021a). The Bureau's review documents for the Three Rivers Resource Area are better, but still lack key information and, in any event, are, like the Steens area reviews, substantially inaccurate and outdated.

By contrast, the Bureau's wilderness reviews on the neighboring Lakeview and Vale districts follow the agency's manual requirements, just as ONDA's reports do. The Bureau also undertook an independent review of the Vale and Lakeview inventories to ensure those district offices properly and consistently applied agency handbook direction. It is not surprising, then, that ONDA and the Bureau agree to a very high degree on which lands possess the statutorily defined characteristics of wilderness on those districts. See **Table 1** and **Figs.1 and 2**.

New evidence—ONDA's most recent route and wilderness surveys—underscores how inaccurate and outdated the Bureau's wilderness findings are on the Burns District. First, since 2019, ONDA has undertaken a comprehensive, ground-based inventory of the current condition of motorized routes throughout the greater Steens Mountain area. In July 2022, ONDA submitted its *Steens Mountain Cooperative Management and Protection Area Route Inventory Report* to the Bureau (ONDA 2022). Building on its original wilderness inventory reports (ONDA 2002a, 2002b) and additional, ground-based, photographic route inventory documentation collected and provided to the Bureau between 2005 and 2018, the new report includes thousands of photographs, detailed maps, and meticulously researched narrative descriptions, plus a unique dataset showing locations of comparative photographs taken in ONDA inventories prior to 2019. See **Figs. 6 and 7** (showing inventory units and routes surveyed on Steens Mountain since 2007).

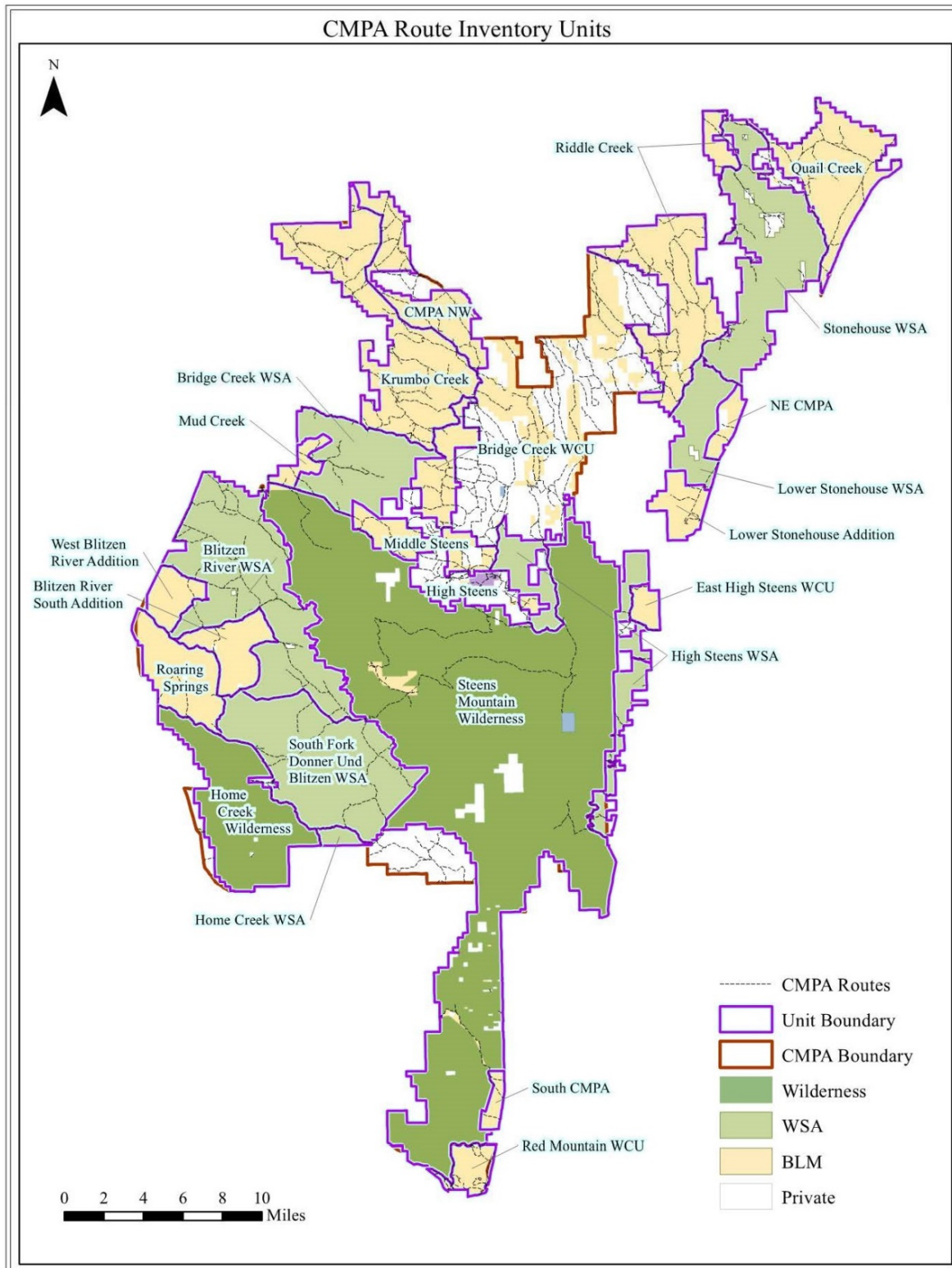


Fig. 6. ONDA route inventory units within the Steens Mountain Cooperative Management and Protection Area. ONDA surveyed 358 miles of primitive, obscure, and nonexistent routes during field surveys conducted between 2019 and 2021.

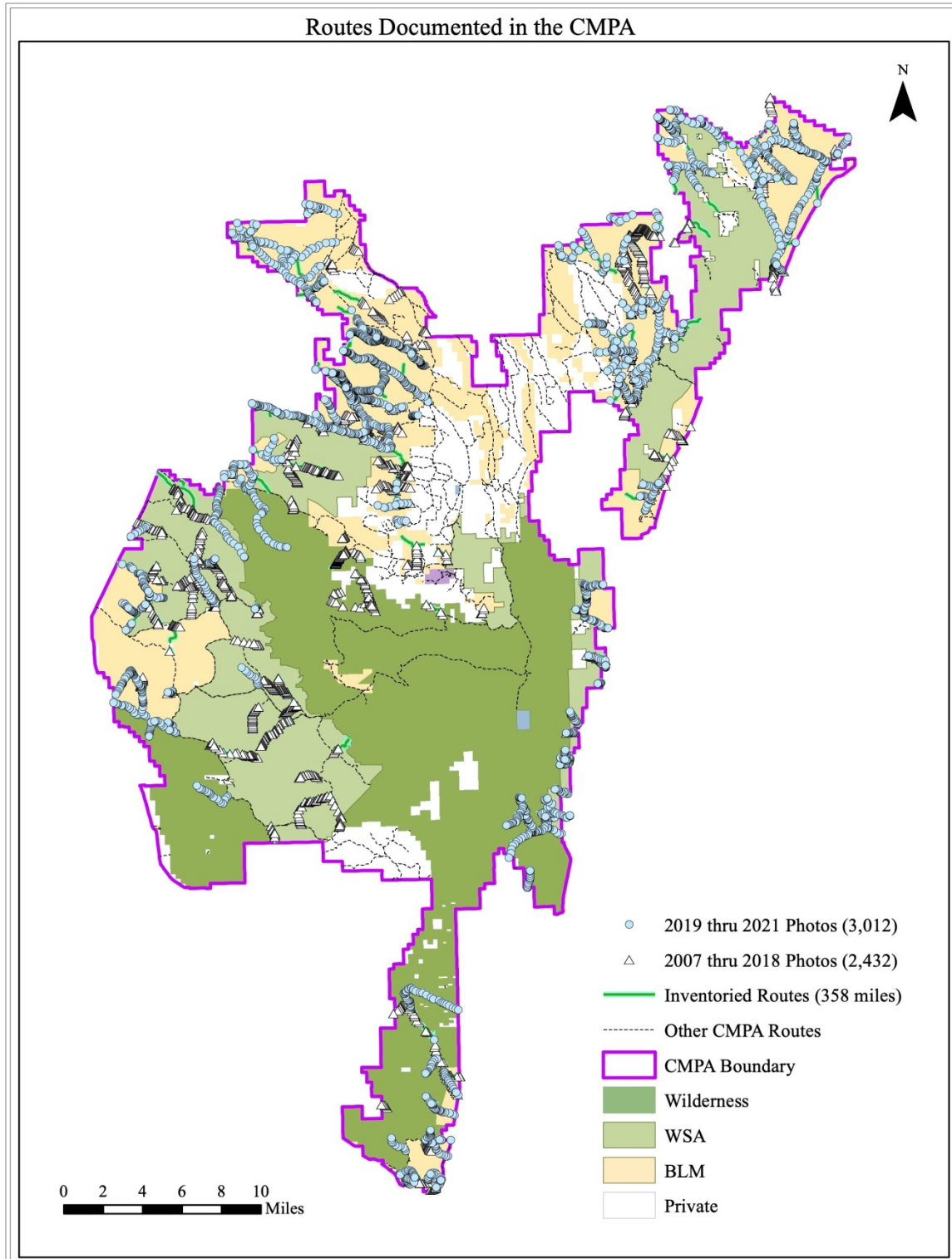


Fig. 7. Routes surveyed and documented by ONDA within the Steens Mountain Cooperative Management and Protection Area. ONDA revisited photo points and supplemented its original 2002 inventory (ONDA 2002a, 2002b), taking thousands of photographs between 2007 and 2018, and again between 2019 and 2021.

For the 2022 report, ONDA inventoried and assessed 358 miles of public land routes on Steens Mountain.¹² Of those 358 miles of routes, 14.2 miles are mechanically constructed and maintained to ensure relatively regular and continuous use—and therefore meet the wilderness definition of a “road.” Another 164 miles of routes are *not* mechanically constructed and/or *not* presently maintained to ensure relatively regular and continuous use; these routes, maintained solely by the passage of vehicles, are “ways” for wilderness inventory purposes.

Importantly, ONDA further found that 169.6 miles of the surveyed routes are obscure or nonexistent and are no longer visible or existing linear features on the landscape, and that another 10.2 miles of unauthorized routes were created unlawfully after the passage of the Steens Act in 2000. These obscure, nonexistent, and unauthorized routes should be closed because motorized use or mechanical maintenance on them would cause resource damage and is prohibited under the Steens Act and other authority. *See* ONDA (2022); *see also* *ONDA v. Rose*, 921 F.3d at 1189 (“The Steens Act prohibits the use of motorized vehicles ‘off road,’ but also authorizes the use of motorized vehicles on ‘roads and trails’”) (citing 16 U.S.C. § 460nnn-22(b)(1)); 16 U.S.C. § 460nnn-12(a) (Steens Act requirement that Secretary shall “conserve, protect, and manage the long-term ecological integrity of Steens Mountain for present and future generations”). Like wilderness “ways,” such closed or unauthorized routes do not inhibit roadlessness, for wilderness inventory purposes—supplying still further evidence that

¹² ONDA did not survey 181.7 miles of established routes in the CMPA, such as the 60-mile Steens Mountain Loop Road and other well-known named routes; nor did it survey 207 miles of routes on private or state land, which are undisputed though not necessarily well-established. As noted in the report, ONDA intends to provide supplemental information on another 17 miles of routes that are of doubtful status and high concern (ONDA 2022).

there are substantially more (and larger) wilderness character areas on Steens Mountain than the Bureau recognized twenty years ago, in 2003.

In short, this 2022 route inventory report will inform the Bureau's current travel planning project for Steens Mountain and, simultaneously, can serve as the foundation for reassessing wilderness character lands throughout the half-million acre Steens Mountain protected area. ONDA also highlights in its report that primitive routes occurring within identified wilderness character units deserve special attention to prevent maintenance that could result in fragmentation or loss of these special areas.

Finally, since 2021, ONDA has also undertaken a comprehensive, ground-based inventory of current route conditions and wilderness character in the Three Rivers Resource Area. ONDA is in the process of compiling that data and finalizing a wilderness inventory report expected to be submitted to the Bureau this year. Initial analysis shows that there are 22 wilderness units in the Three Rivers area, including seven Bureau-recognized LWCs that total 190,411 acres (including lands that overlap with the adjoining Lakeview District), as well as another 770,000 acres of wilderness areas identified for the first time by ONDA. The forthcoming ONDA report will be the most up-to-date and accurate information on record regarding wilderness values in the Three Rivers Resource Area and throughout the greater Harney Basin area.

E. A Wilderness Update is Essential to Protecting Ecological Integrity, Providing Climate Resiliency, and Supporting Landscape-Scale Conservation.

Updating its wilderness inventory and determinations on the Burns District will allow the Bureau the opportunity to preserve ecological integrity and increase climate resiliency in some of North America's most important wildlife habitats and to identify significant roadless areas that can contribute to the protection of 30% of American

lands and waters by the year 2030. *See also* BLM 6310 Manual at 2 (describing that, in addition to new information, acquisition of new lands, or NEPA concerns, “[t]here also may be other circumstances in which BLM will find it appropriate to update its wilderness characteristics inventory.”).

1. Comprehensive preservation of wilderness values in southeastern Oregon will support ecological integrity and climate resiliency for essential wildlife habitats and migratory corridors.

The sagebrush ecosystem is among the “most imperiled” in North America. 75 Fed. Reg. at 13,916. The greater Steens Mountain area in southeastern Oregon is at the heart of this important landscape. The areas managed here by the Bureau provide essential habitat for greater sage-grouse, ancient migratory corridors for pronghorn, and home to hundreds of other native fish and wildlife, reptiles and amphibians, insects and plants, and a wealth of biological diversity (Remington *et al.* 2021) (USGS report). All of these species are threatened by loss and fragmentation of habitats, continued pressure from human resource use and development, and ever-increasing stress from a rapidly changing climate.

Greater Sage-Grouse. The most alarming and foremost indicator of current trends is the decline of the sage-grouse. In 2010, the U.S. Fish and Wildlife Service determined that the sage-grouse “warranted” protection under the Endangered Species Act. 75 Fed. Reg. at 13,910; *see also id.* at 13,917–23 (2010 estimate of about 535,000 birds remaining rangewide, down from 16 million birds in the 1960s). In 2013, a team of state and federal experts had described “an urgent need to ‘stop the bleeding’ of continued population declines and habitat losses by acting immediately to eliminate or reduce the impacts contributing to population declines and range erosion” (USFWS 2013). Even after the adoption of sweeping amendments to 98 Bureau and Forest Service land use plans across ten western states in 2015, greater sage-grouse

populations have continued to decline. In 2021, the U.S. Geological Survey found that sage-grouse populations have experienced an 80% rangewide decline since 1965 and a nearly 40% decline since 2002. (Coates *et al.* 2021).

According to the Oregon Department of Fish and Wildlife (“ODFW”), the statewide sage-grouse population in Oregon has experienced a similarly dramatic decline in recent years. In 2021, the ODFW estimated that the Oregon sage-grouse population had declined to 15,927 birds (Vold 2021).¹³ This was the third-lowest population count since the ODFW began counting in 1980, after the two lowest counts in 2019 and 2020. The Oregon sage-grouse population has declined by nearly half since 2003 when ONDA and others had first petitioned for the bird’s protection under the Endangered Species Act. *See also* (BLM 2015) (2015 ARMPA FEIS at 3-24, describing 21% loss in sagebrush habitat in Oregon since European settlement and hundreds of thousands of acres of habitat lost to wildfire in last decade).

Even more distressing, the Oregon population declined by 20% just since the Bureau adopted its 2015 sage-grouse conservation plan for the state (the “2015 ARMPA”) that was supposed to represent a “paradigm shift” in federal land management. 80 Fed. Reg. at 59,875. Sage-grouse populations sometimes exhibit a modest rebound after periods of decline (Coates *et al.* 2021). But by 2021, the ODFW cautioned that the “lack of a sharp rebound following the 2019 historic low population estimate warrants serious concern for the sage-grouse population in Oregon” (Vold 2021). The precipitous population decline evident since 1980 underscores the urgency of identifying and protecting unfragmented sagebrush habitat areas to best support the bird’s recovery in Oregon.

¹³ The ODFW Annual Reports (Foster 2017, Foster 2018, Foster 2019, Foster & Vold 2020, Vold 2021) are available at <https://www.dfw.state.or.us/wildlife/sagegrouse/population.asp>.

The sage-grouse on and around Steens Mountain belong to the biologically defined Western Great Basin population (Garton *et al.* 2011). The Three Rivers Resource Area includes sage-grouse belonging to the biologically defined Central Oregon population. *Id.* These are two of the most important core populations within the species's western stronghold. See 75 Fed. Reg. at 13,919 (USFWS describing that the “Northern Great Basin Management Zone,” where Steens Mountain and the Three Rivers area are located, is significant because it holds “core populations” that “have the highest reported densities” of birds). A decade ago, an unprecedented population viability analysis showed a 100% probability that both of these populations will decline below 500 birds—the minimum size to maintain population viability—in just 100 years if the lands’ carrying capacity continues to decline (Garton *et al.* 2011).

By 2015, the Western Great Basin population had an estimated minimum population size of just 1,934 males—a 69% decline from the reconstructed estimate of 6,327 males based on 2007 surveys (Garton *et al.* 2015). The intervening years showed a decline to “abundances lower than ever observed before and approximately 16% of average values close to 11,765 males counted in the 1970s and 1980s” (Garton *et al.* 2015). The authors bluntly described the Western Great Basin population as experiencing “an extinction vortex” (Garton *et al.* 2015).

Similarly, the Central Oregon sage-grouse population had an estimated minimum population size of just 559 males by 2015—a 33% decline from the reconstructed estimate of 829 males based on 2007 surveys (Garton *et al.* 2015). The intervening years showed a decline to “abundances lower than ever observed before and approximately 23% of average values close to 2,424 males counted in the 1970s and 1980s” (Garton *et al.* 2015).

The vast roadless areas and remaining intact sagebrush plant communities in the greater Steens Mountain area are a critical “stronghold” for the survival and recovery of this species. ONDA

analyses show that of 8.6 million acres of wilderness character lands in southeastern Oregon (including Wilderness, WSA, LWC, and public inventory-proposed areas), 7.2 million of those acres are within Bureau-identified sage-grouse habitat (**Fig. 3**). *See also* Oregon ARMPA 2015 FEIS at Fig. 3-9 (special designations on Bureau-administered land within the range of sage-grouse). But the Bureau has declined to recognize 1.6 million acres of these wilderness character lands, mostly on the Burns District (**Fig. 4**).

Special Status Species Policy. Preservation of wilderness-quality lands in southeastern Oregon also supports implementation of the Bureau’s policy on special status species. Pursuant to FLPMA, the Endangered Species Act, and other authority, the Bureau has adopted a “Special Status Species Policy” as part of its 6840 manual (BLM 2008). The purpose of the Policy is to provide “for the conservation of special status species plants and animals, and the ecosystems on which they depend.” BLM 6840 Manual § 6840.01. Among the Policy’s objectives is to “ensure that actions requiring authorization or approval by [BLM] are consistent with the conservation needs of special status species and do not contribute to the need to list any special status species . . . under the provisions of the [Endangered Species Act].” *Id.* § 6840.02.

The greater sage-grouse is a “special status species” covered by the Policy. BLM 6840 Manual § 6840.01 (“sensitive” species). Sensitive species must be afforded at least the same level of protection as Endangered Species Act “candidate” species. *See id.* (“protection provided by the policy for candidate species shall be used as the minimum level of protection for BLM sensitive species”). For candidate species, the Policy directs the Bureau to “ensure that actions authorized, funded or carried out by the BLM do not contribute to the need for the species to be listed.” *Id.* § 6840.06. Among other things, the Bureau must coordinate with the U.S. Fish and Wildlife Service to determine “population dynamics, current threats, abundance, and habitat needs.” *Id.* § 6840.06C. Managing for preservation of wilderness

values where they overlap with key sage-grouse habitats is an important way in which the Bureau can fulfill its obligations under the Special Status Species Policy. *See also* 2015 ARMPA FEIS Table 3-57 (showing the significant overlap between currently acknowledged wilderness character lands and sage-grouse habitat in Oregon).

Landscape-Scale Preservation. Finally, preservation of wilderness values on the Burns District holds extraordinary potential to reinforce and expand upon the existing opportunity before the Department of the Interior to comprehensively manage this landscape. ONDA has long highlighted the importance of what is known as the Greater Hart-Sheldon region. This is a three million-acre landscape spanning much of the Lakeview and Andrews resource areas (**Fig. 8**). Comprising the northern extent of the Great Basin in southern Oregon and northern Nevada, this region stretches eastward to Steens Mountain and is anchored by two of the largest wildlife refuges in the United States. It encompasses vast stretches of unbroken sagebrush habitat. *See* Letter from Ryan Houston, ONDA, to Todd Forbes, BLM (Mar. 3, 2021) (attached as **Appendix F**).

The region's remarkably intact and biologically diverse plant and animal communities support one of the longest and largest pronghorn migrations in North America—one that has been the focus of more than a century of landscape-scale conservation efforts (**Fig. 9**). Within Oregon, the region is the crown jewel of sage-grouse habitat and supports more than a quarter of the state's remaining birds. This landscape provides core habitat and source populations for hundreds of species of wildlife. The Bureau-managed public lands—including those on the southern portion of Burns District—that surround and connect the wildlife refuges form a critical piece of the puzzle. *See* Uselman (1998) (petition submitted by an ONDA-led group of 23 conservation and wildlife organizations, nominating 1.1 million acres of Bureau-managed public lands surrounding the Hart Mountain and Sheldon wildlife refuges as an Area of Critical Environmental Concern).

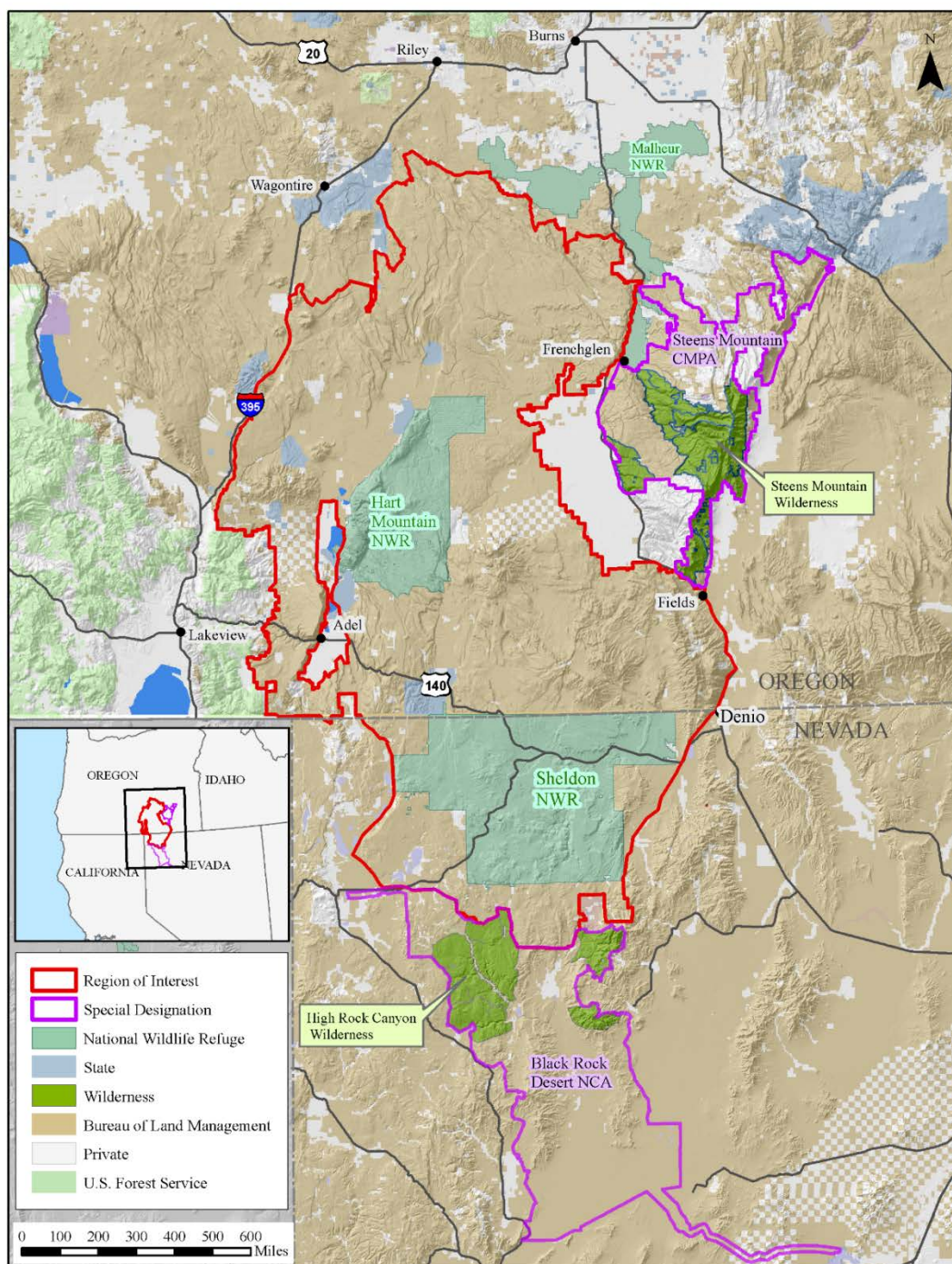


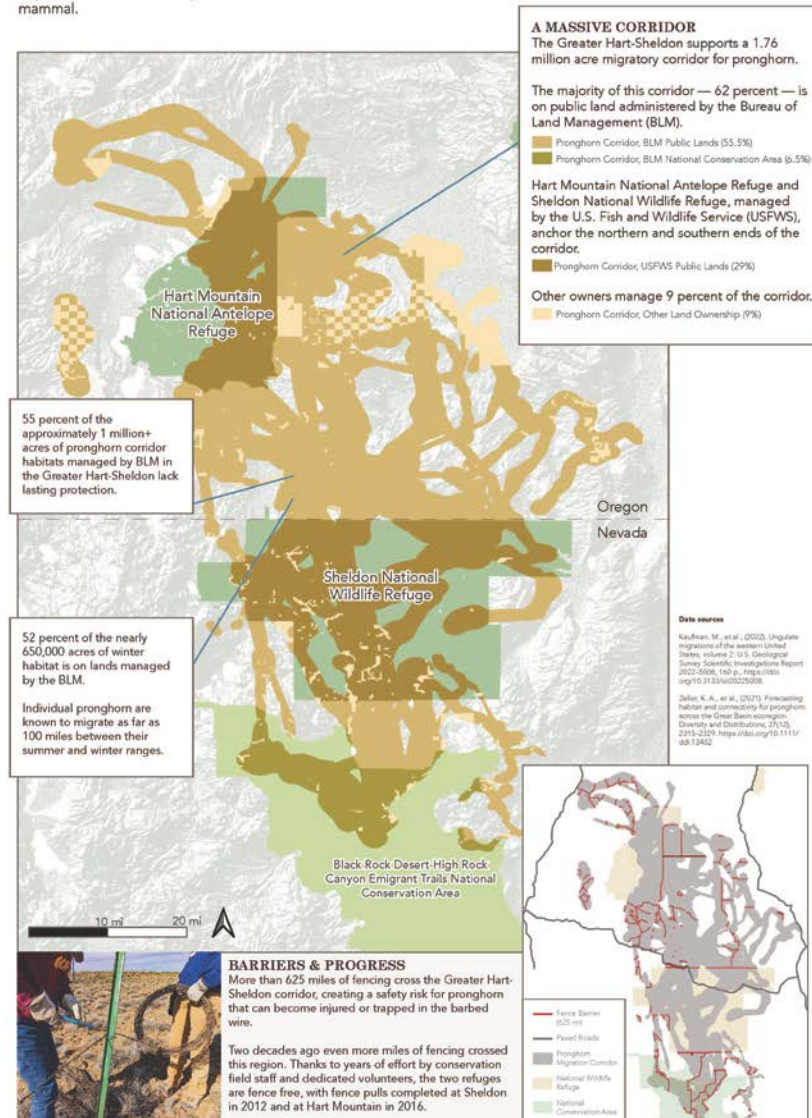
Fig. 8. The Greater Hart-Sheldon region in southern Oregon and northern Nevada. Characterized by a unique migratory corridor for pronghorn antelope and large expanse of unfragmented sagebrush steppe, wilderness values and wildlife habitat overlap extensively on this landscape.

The Essential Pronghorn Corridor in the Greater Hart-Sheldon

The Greater Hart-Sheldon region straddles the Oregon-Nevada border and provides essential habitat for pronghorn, as well as hundreds of other sagebrush-dependent plants and animals. The region supported more than 8,000 pronghorn in 2016. However, populations have declined since then, with the most recent count at 4,313 animals in 2019. Information newly published by the U.S. Geological Survey highlights the critical importance of this landscape to the future of North America's fastest land mammal.



Pronghorn (*Antilocapra americana*)



Infographic created by Oregon Natural Desert Association | www.onda.org

Fig. 9. The vast pronghorn migratory corridor in the greater Hart-Sheldon region. Wilderness values and wildlife habitat overlap considerably on this 1.8 million-acre landscape that reaches into the Burns District, Andrews Resource Area. (Source: ONDA, *The Essential Pronghorn Corridor in the Greater Hart-Sheldon*, <https://onda.org/essential-pronghorn-corridor/>).

More than 20 years ago, the Steens Act directed the Bureau to manage the half-million acre Steens Mountain CMPA “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). Among other requirements, the Act protects against habitat fragmentation by prohibiting driving off-road and largely limiting motorized vehicles to designated, existing roads and trails. *Id.* § 460nnn-22(b). It prohibits construction of new roads or trails for motorized or mechanized vehicles unless the Secretary determines it necessary for public safety or protection of the environment. *Id.* § 460nnn-22(d). It withdrew more than a million acres of land from mining. *Id.* § 460nnn-81(a).

Yet, despite these and other protections, and despite the Steens Act’s clear emphasis on prioritizing “ecological integrity” above all else, the Bureau in 2003 identified just three small units, totaling a mere 4,331 acres, as “Parcels with Wilderness Characteristics” on Steens Mountain.¹⁴ In the 2005 CMPA RMP, the Bureau provided no special management provisions to protect these parcels’ wilderness character. In 2007, the Bureau adopted a Travel Plan for the mountain—later held unlawful by the Ninth Circuit Court of Appeals—that would have splintered the landscape with more than 550 miles of motorized routes.

Now, more than ever, the region spanning from the Greater Hart-Sheldon area to Steens Mountain and the vast sagebrush country to the north of Steens, presents an extraordinary opportunity to conserve a key sagebrush stronghold, wildlife population and habitat connectivity, and climate refugia at a landscape-scale. This is especially so when compared to other high-value migration corridors and sagebrush habitats in North America, where oil and gas drilling, transportation networks, energy development and transmission, livestock grazing and

¹⁴ These are the Bridge Creek (1,526 acres), High Steens (629 acres), and Lower Stonehouse (2,176 acres) parcels. *See* 2005 CMPA Proposed RMP and Final EIS at 2-158 to -159.

other commodity production, and other land use and development pressures have fragmented habitats and created near-impenetrable barriers for wildlife movement.

The fragmentation and loss of our Nation’s irreplaceable large-scale habitats, exacerbated and accelerated by the climate crisis, cannot be understated. As Kauffman *et al.* (2022) have explained, “In the coming century, climate change is projected to impact precipitation and temperature regimes worldwide (IPCC 2022), with especially large effects on arid and semiarid landscapes (Palmquist et al. 2016).” In the intermountain West, including the Bureau-managed lands of southeastern Oregon, scientists have predicted that increased winter temperatures, reduced snowpacks, earlier spring snowmelt, altered soil water recharge, increased evaporative demand, longer and drier summers, altered fire regimes, and an increased spread of exotic annual grasses (Kauffman 2022). *See also Fig. 10* (map showing extreme hotspot covering essentially all of the Burns District).

In updating its wilderness inventory for the Burns District, the Bureau will have an opportunity to then consider how a combination of passive and active restoration on damaged and vulnerable lands, including within wilderness character areas, can make a quantifiable contribution toward meeting the Nation’s commitment to reducing greenhouse gas emissions and bolstering landscape resilience. *See Letter from Peter M. Lacy, ONDA, to Shane Deforest, BLM (Apr. 29, 2021) (attached as Appendix G) (letter from ONDA to Bureau outlining significant new scientific information relevant to climate change issues and the agency’s ongoing analysis of amendments to the SEORMP); Kauffman et al. (2022) (illustrating greenhouse gas, carbon sequestration, and social cost of carbon impacts and potentials associated with lands authorized for livestock grazing instead of emphasizing ecological preservation).*

Importantly, even in LWCs, active restoration can prioritize areas that have high natural recovery rates, where of use native plant species,

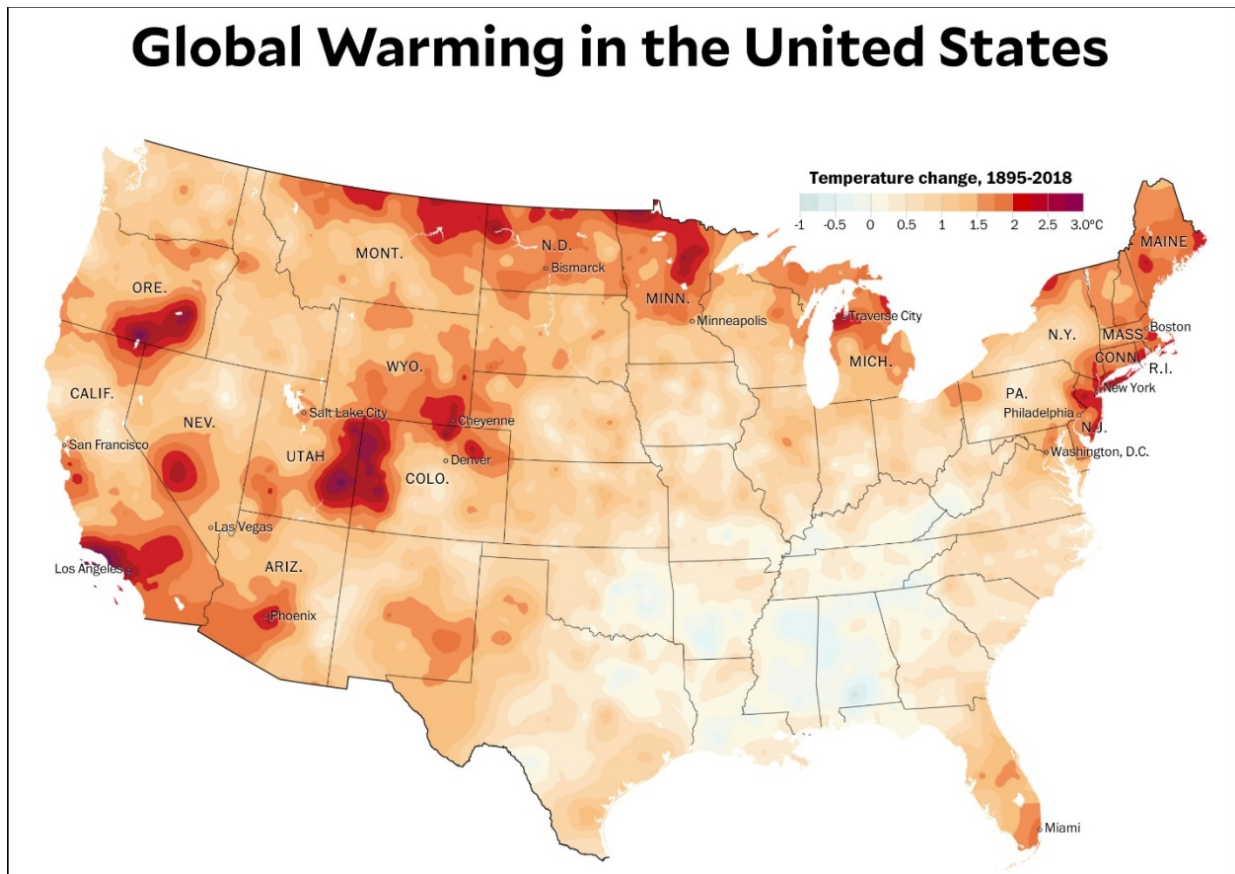


Fig. 10. The warming of the continental USA during the period 1895–2018, including a significant hotspot covering much of the Burns District ($>3^{\circ}\text{C}$ rise in the high deserts of southeastern Oregon) (Kauffman 2022). This will have profound impacts on the lands and resources managed by the Bureau in Oregon’s high desert.

minimum till drills for seeding and increased rest from disturbance to enhance biological soil crusts can rebuild resistance and resiliency in the system. While active restoration can have short-term impacts on wilderness character, this type of restoration in degraded uplands—when coupled with landscape-scale protections from new road construction, energy development and transmission, mining, and other activities that permanently impact wilderness character—would significantly contribute to the Bureau’s effort to mitigate impacts from climate change on public lands.

In short, the Bureau has an opportunity—and a responsibility—to consider how wilderness preservation and land use planning on the Burns District can help protect one of the last and greatest wildlife strongholds in the Sagebrush Sea—both for the preservation of native species and ecological integrity, and for the use and enjoyment of present and future generations.

2. Landscape-scale preservation of roadless areas in southeastern Oregon will support the goal of protecting 30% of the Nation’s lands and waters by the year 2030.

Roadlessness is the essential feature of wilderness. The Ninth Circuit has observed that “roadlessness has environmental significance apart from permanent wilderness preservation.” *ONDA v. Bureau*, 625 F.3d at 1117 (citing *Smith v. U.S. Forest Serv.*, 33 F.3d 1072, 1078 (9th Cir. 1994)). “[I]ncreased [road] use has the potential to degrade wilderness values” by “producing new surface disturbances on and adjacent to the routes themselves [and] by interfering with wildlife, naturalness, solitude and opportunities for primitive and unconfined recreation.” *Mont. Wilderness Ass’n v. Connell*, 725 F.3d 988, 996–97 (9th Cir. 2013); *see also id.* at 997 n.6 (“route closures have the overall effect of *enhancing* wilderness values”); **Figs. 11 and 12** (photographs illustrating damage to landscape from unlawful blading on a nonexistent route on Steens Mountain).

Roadless areas in natural condition are critical to the health of functioning sagebrush ecosystems and are most often refuges for native species (Soule & Terborgh 1999, Forman *et al.* 2003, Gelbard & Harrison 2005). LWCs—being not just *roadless* but also, by definition, in *natural condition*—are significant for their unfragmented sagebrush habitat, including genetic connectivity and migration corridors for sage-grouse, pronghorn, and other landscape-scale species. Maintained roads and even primitive four-wheel-drive tracks contain significantly greater abundances of weeds and exotic species, and lower abundances of



Fig. 11. Photographs showing before-and-after condition of Burnt Car Road on Steens Mountain, bladed for “routine maintenance” in 2009. An independent Bureau report later confirmed that the agency performed similar ecologically damaging work on a total of 28 miles on four different routes on the mountain.



Fig. 12. Burnt Car Road at photo point FT42 in 2021. Following years of restoration and rehabilitation work jointly conducted by the Bureau and ONDA, the route has been narrowed and looks more like a primitive two-track compared to the post-2009 blading, but remains easily identifiable and drivable today compared to its original, nearly nonexistent, condition.

natives, than areas distant and isolated from roads and primitive routes (Gelbard & Harrison 2005, Gelbard 2003, Davidson & Fox 1974, Brooks 1995, 1999). Declines in the abundance of exotic species with increasing distance from roads and off-road vehicle trails have been observed in Glacier National Park (Tyser & Worley 1992), the Mojave Desert (Johnson *et al.* 1975), the state of California (Harrison *et al.* 2002, Williamson & Harrison 2002), and in forests from the eastern United States (Watkins *et al.* 2003) to Australia (Amor & Stevens 1976, Milberg & Lamont 1995).

Roads, trails, rights-of-way, and even so-called fuel breaks are acutely effective at spreading invasives. Cheatgrass, for instance, is strongly associated with roads and travel routes, where regular ground disturbance from travel and maintenance activities confer a competitive advantage over native species (Banks & Baker 2011, Bromberg *et al.* 2011, Gelbard & Belnap 2003, Gelbard & Harrison 2005). Cheatgrass seeds readily attach to vehicle tires (West *et al.* 2015), and cheatgrass has been found to invade along both two-track roads and paved vehicle routes (Gelbard & Belnap 2003).

In addition, livestock use tends to be concentrated around roads (Getz & Baker 2008). Grazing cattle consume native plants, trample and destroy soils and fragile spring and riparian areas, and increase the spread of sagebrush-replacing weeds. 75 Fed. Reg. at 13,939–40, 13,942; (Kauffman *et al.* 2022). Roads with wider disturbed verges have greater cover of cheatgrass and other weeds (Gelbard & Belnap 2003). From disturbed roadways and trails, invasive annual grasses can colonize adjacent habitats (Gelbard & Belnap 2003). Mechanically created fuel breaks of all types are prone to weed invasion (Shinneman *et al.* 2018).

In 2021, the Biden administration, building on broad consensus in the scientific literature, published its report on the president's commitment to conserve 30% of the country's terrestrial and marine

environments by 2030.¹⁵ The “30x30” initiative seeks to respond to the biodiversity crisis nationally and around the world. More than a million species globally are threatened with extinction (UN 2021). And climate change is confounding efforts to conserve and restore ecosystems as it afflicts habitats with warming temperatures, prolonged droughts, increasingly severe wildfires, rising sea levels, and violent storms.

Oregon’s high desert is particularly vulnerable. Southeastern Oregon—especially the public lands managed by the Bureau on its Burns District, in the heart of this area—has already experienced among the highest increases in temperatures anywhere in the United States (Kauffman *et al.* 2022). *See Fig. 10.* Large areas of this landscape have seen mean rises in temperature of several degrees Centigrade over the past century. This is beyond the tipping point for significant shifts affecting ecosystem services (Kauffman 2022, 2019).

This suggests that the biota are experiencing unprecedented stresses that were not encountered at the time when the 2005 Steens Mountain CMPA and Andrews Management Unit RMPs were developed nearly twenty years ago—let alone when the Bureau developed the 1992 Three Rivers RMP. For example, assumptions about recovery of vegetation following early season and deferred livestock grazing may now be in error due to shifts in plant phenology and soil moisture availability (Kauffman 2019, 2022; Kauffman *et al.* 2022). And because these climate effects are compounded by past and present mismanagement of sagebrush steppe West-wide, it may be important, to meet the nationwide 30x30 goal, to conserve *more than 30%* of *Oregon’s portion* of the Sagebrush Sea to help account for known and future loss of sagebrush habitat in other states and regions. *See also*

¹⁵ U.S. Dep’t of the Interior, *Biden-Harris Administration Outlines “America the Beautiful” Initiative* (May 6, 2021), <https://www.doi.gov/pressreleases/biden-harris-administration-outlines-america-beautiful-initiative>.

Blumm *et al.* (2022) (grazed lands *could* be eligible for inclusion in 30x30 program if they were actually managed for nonimpairment of the productivity of the land—which they are not).

The administration’s 2021 report promotes public lands protection for biodiversity conservation and recognizes the importance of Bureau-managed public lands to that endeavor. After all, the Bureau manages about 245 million acres of public land—one in every ten acres of land in the United States. The report recommends creation of an American Conservation and Stewardship Atlas to help track, tabulate, and compare conservation efforts nationwide. It also presents a number of immediate priorities for the 30x30 goal, including supporting tribal conservation initiatives, coordinating with states and communities on conservation policy, and promoting outdoor recreation.

These plan components and recommendations could be important, even instrumental, in conserving wild spaces and unfragmented fish and wildlife habitats in Oregon’s outback and beyond. The three million acres of LWC the Bureau already has identified in its Vale, Lakeview, and Prineville districts can—if managed to preserve their wilderness characteristics including roadlessness and naturalness—provide an important part of getting to 30%. Adding an additional 1.3 million additional acres of public-identified (but BLM-rejected) wilderness areas on the Burns District would increase the Bureau’s 30x30 contribution in Oregon substantially. Already, dozens of conservation groups have written to the Secretary, urging her to use her power to designate Wilderness Study Areas under section 202 of FLPMA to further this goal.¹⁶ Having an up-to-date and accurate inventory of

¹⁶ Letter from Natural Resources Defense Council *et al.* to Secretary Haaland (Mar. 16, 2021), available at <https://suwa.org/wp-content/uploads/FINAL-202-WSA-sign-on-letter-03162021.pdf>; see also Southern Utah Wilderness Alliance, *Section 202 Wilderness Study Areas* (June 21, 2021), <https://suwa.org/section-202-wilderness-study-areas/> (also describing this issue).

lands with wilderness character, as FLPMA requires, is a necessary prerequisite to the designation of WSAs, as well as to any congressional action to permanently protect these wildlands in southeastern Oregon as Wilderness.

II. THE SECRETARY SHOULD DIRECT THE BUREAU TO PRESERVE WILDERNESS VALUES ON THE BURNS DISTRICT UNTIL THE AGENCY HAS UPDATED ITS INVENTORIES AND LAND USE PLANS.

To protect finite and irreplaceable wilderness values—and the fragile climate and ecological services wilderness lands provide—while the Bureau updates and verifies its wilderness inventories and management prescriptions on the Burns District to conform to neighboring districts in southeastern Oregon, the Secretary should direct that:

- until the Bureau has completed new land use plans or plan amendments, the agency shall not implement any projects in agency- or public-identified lands with wilderness characteristics, where such action would diminish the size or cause the entire unit to no longer meet the criteria for wilderness character; and
- until the Bureau has completed new land use plans or plan amendments, if a project is proposed or scheduled for implementation in any of the respective planning areas and would be in an area that the Bureau has found to possess wilderness character, the agency will analyze the effects on wilderness character through each project's NEPA process. The Bureau shall not implement any project if its analysis determines that the effects of the project would cause an area with Bureau-identified wilderness character to no longer meet the minimum wilderness character criteria.

These are the same interim, mutually agreed-to, protections that have been in place since 2010 on the Lakeview and Vale Districts, under the *ONDA v. Bureau* agreement. **Appendix A** (Settlement Agreement ¶¶ 18–19).

Interim protection of public-identified and agency-confirmed wilderness values makes sense because harm to wilderness and roadlessness is irreparable. This was illustrated by standard “Level 2” maintenance the Burns District authorized on a designated “road” on Steens Mountain shortly after the agency finalized the since-invalidated Travel Plan, in 2007.¹⁷ As shown in **Fig. 11**, supposedly routine “maintenance” of a route designated as a “Base Route” under the Travel Plan transformed a track that had become nearly indistinguishable from the surrounding landscape into a major thoroughfare bisecting that roadless area.

Even after expensive, litigated, years-long rehabilitation efforts, a well-defined road persists today (**Fig. 12**). Large portions of the route have seen an incursion of invasive weeds including cheatgrass and tumble mustard. Vehicle traffic increased dramatically once the road was created, degrading solitude, wildlife habitat, and wilderness character for miles around. *See Or. Nat. Desert Ass’n v. Suther*, No. 3:09-cv-862-PK, Order of Dismissal [[ECF 57](#)], Settlement Agreement, Sec. I, ¶¶ 1–6 (reciting reclamation and restoration actions including route narrowing, reseeding, and replacing boulders and downed juniper trees), Sec. IV (providing that ONDA and co-plaintiff in that lawsuit,

¹⁷ The Bureau authorized “Level 2” maintenance for nearly every route on Steens Mountain. That provides for routes to be mechanically graded (or “bladed”), for drainage structures to be maintained, and for roadside vegetation to be removed (“brushed”).

Great Old Broads for Wilderness, would help the Bureau with the project, which they did).¹⁸

Driving on or mechanically maintaining routes like this results in irreparable harm to the environment by creating new scars on the landscape that will take decades or longer to heal in this arid desert environment. See **Fig. 11** (Burnt Car Road). That would damage both irreplaceable wilderness values and critical unfragmented sagebrush habitat for sage-grouse and other wildlife.

In the Steens Mountain travel plan litigation, for example, the district court enjoined the Bureau from authorizing driving on or mechanically maintaining about 120 miles of disputed routes. This was “to prevent BLM from transforming obscure or non-existent routes that were designated as open to vehicle traffic under the [Travel Plan] into permanent elements of the landscape under the guise of ‘maintaining’ these routes.” *Rose*, No. 3:09-cv-369-JR, Nov. 6, 2012 Opinion & Order [ECF 198] at 2. The court found that “the potential expansion of non-

¹⁸ Note, too, that under this 2010 settlement agreement in *ONDA v. Suther*, the Bureau has an ongoing—but not yet fulfilled—obligation to update its wilderness inventory and findings on this part of Steens Mountain. See Settlement Agreement [ECF 57] at Sec. II (providing that following completion of road closure and other restoration activities, the Bureau “will conduct a wilderness inventory, including updating its prior inventory findings and determinations, of ONDA’s Blitzen River Proposed Wilderness Study Area.”). Because the Tombstone Canyon Road was rehabilitated and permanently closed pursuant to the settlement agreement, ONDA’s 6,432-acre proposed Blitzen River South Addition (ONDA 2002a) is now indisputably contiguous with the existing, 32,000-acre Blitzen River WSA. This further strengthens the case for identifying and managing for preservation of wilderness values in this now-even-larger roadless area. See also Bureau of Land Mgmt., *Blitzen River Wilderness Study Area*, <https://www.blm.gov/programs/national-conservation-lands/oregon-washington/blitzen-river-wsa> (map and description of existing WSA).

existent routes into roads poses the threat of weed infestation and habitat fragmentation.” *See Rose*, No. 3:09-cv-369-JR, July 8, 2011 Opinion & Order [ECF 118] at 10–11. “[S]ince it is undisputed that roads damage and fragment sage-grouse habitat, the creation of *additional* roads will necessarily increase the threat to sage-grouse habitat.” *Id.*; *see also Steens Mountain Travel Management Plan Environmental Assessment* (2007) at 6 (“In this arid part of the world, unimproved roads or trails typically remain visible and road-like for many years even without maintenance or much traffic.”).

In 2019, the parties mutually agreed to extend those protections, entering into a court-approved “stipulated injunction limiting motorized travel and maintenance on certain routes pending a new [Travel Plan].” *Rose*, No. 3:09-cv-369-JR, Stipulated and [Proposed] Order [ECF 375] (D. Or. Dec. 20, 2019) (**Appendix D**). In its 2022 route report, ONDA recommends various combinations of closure, limited use and maintenance on routes documented as being nonexistent, obscure, unauthorized, or best suited for administrative or permit use only, to protect resource values on the land (ONDA 2022).

The protections ONDA asks the Secretary to adopt here also are consistent with travel-related direction and best management practices prescribed in the Bureau’s sage-grouse plan amendments (the “2015 ARMPA”) for eastern Oregon including the three land use plans that govern the Burns District (BLM 2015a). For example, the ARMPA requires the Bureau to ensure a minimum 4-mile lek buffer in all sage-grouse habitat for “upgrading” primitive roads. 2015 ARMPA at 2-8. The Bureau must reduce disturbance by evaluating and modifying motorized designations and route selection in accordance with the regulatory minimization criteria. 2015 ARMPA at 2-30.¹⁹ And the

¹⁹ *See* 43 C.F.R. §§ 8340.0-8, 8342.1(a)–(c) (regulatory criteria requiring Bureau to minimize impacts on soils, vegetation, wildlife, air, water, and cultural resources); *see also* Exec. Order No. 11644, 37 Fed. Reg. 2877 (1972), *as amended by* Exec. Order No. 11989, 42 Fed. Reg. 26,959

Bureau must limit duplicative routes in its plans, avoid upgrading existing roads or constructing new roads that are harming sage-grouse or that are within four miles of leks, and prioritize restoration, rehabilitation and natural reclamation of low-volume, unnecessary routes not designated in a travel plan. 2015 ARMPA at 2-31 to -32.

The Bureau is presently engaged in a new planning process with respect to the conservation of greater sage-grouse habitat. *See* Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements, 86 Fed. Reg. 66,331 (Nov. 22, 2021). This new process will address inclusion of new information and revisit existing plan deficiencies. *See W. Watersheds Proj. v. Schneider*, 417 F. Supp. 3d 1319 (D. Idaho 2019) (enjoining implementation of 2019 amendments to the plan and directing that Bureau continue to implement the 2015 plan). Consideration of roadless areas and wilderness values, including how these areas can be managed to connect and preserve sagebrush plant communities and support climate-resilient landscapes, should be an important part of the upcoming process. Timing is ideal for the Bureau to update its wilderness inventory and management prescriptions in southeastern Oregon.

In short, because roadlessness and wilderness values—and the fragile climate and ecological services those values support—are finite and irreplaceable, the Secretary should direct the Bureau to protect these values while it undertakes an accurate, consistent, and transparent review of the remarkable public lands and resource values throughout the greater Steens Mountain area of southeastern Oregon.

(1977). Executive Orders 11644 and 11989 impose a substantive obligation on the Bureau to *locate* designated routes to *minimize* damage to natural and cultural resources and conflicts with other existing or proposed recreational uses.

CONCLUSION

For these reasons, ONDA respectfully requests the Secretary and the Department of the Interior to direct the Bureau to prepare a new, up-to-date and accurate, wilderness inventory for federal public lands managed by the agency on the Burns District, in order to bring that district's wilderness inventory and management direction into alignment with neighboring districts, comply with statutory and other legal obligations, and preserve landscape-scale ecological integrity and climate resiliency on southeastern Oregon's public lands.

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Respectfully submitted,

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