

FISH CREEK INHOLDER  
ACCESS-LIVESTOCK  
CROSSING

ENVIRONMENTAL ASSESSMENT  
OR-08-027-076

Bureau of Land Management  
Burns District Office  
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# FISH CREEK INHOLDER ACCESS-LIVESTOCK CROSSING ENVIRONMENTAL ASSESSMENT OR-08-027-076

## CHAPTER I. PURPOSE OF AND NEED FOR ACTION

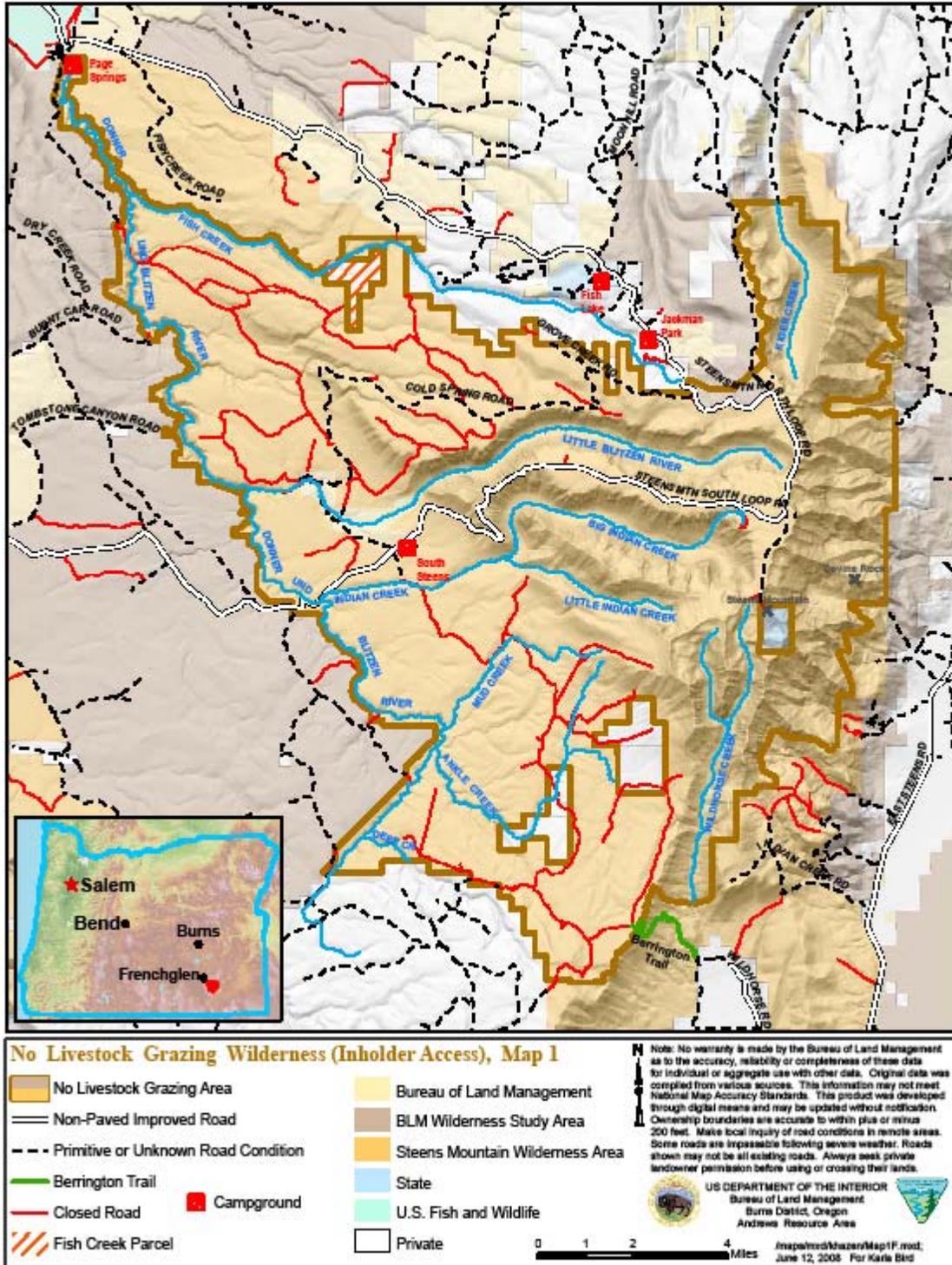
### **Overview of the proposed project and pertinent background information.**

The Andrews Resource Area, Burns District, Bureau of Land Management (BLM) is addressing a landowner request for access to conduct livestock grazing on private land inholdings within Steens Mountain Wilderness. The BLM has received verbal indication such access may be used. Steens Mountain Wilderness was designated as part of the Steens Mountain Cooperative Management and Protection Act (Steens Act) of 2000, P.L. 106-399, 114 Stat. 1655, 16 U.S.C. § 460nnn note. The Steens Act states in Section 112(e)(1) that "[t]he Secretary shall provide reasonable access to nonfederally owned lands or interests in land within the boundaries of the Cooperative Management and Protection Area and the Wilderness Area to provide the owner of the land or interest the reasonable use thereof." The Steens Mountain Cooperative Management and Protection Area Resource Management Plan (CMPA RMP) (2005) states that reasonable access to private inholdings will be assessed in site-specific National Environmental Policy Act (NEPA) documents. The Steens Mountain Wilderness and Wild and Scenic Rivers (WSR) Management Plan (2005) states that BLM will provide reasonable access to private inholdings while minimizing impacts to wilderness characteristics.

One parcel of land owned by Natures' Advocate, LLC within Steens Mountain Wilderness may be used for livestock grazing at the discretion of the landowner. These parcels are located in the Fish Creek Area (Map 1). Livestock grazing activities have occurred on these parcels historically and at least through 2004. When implementation of the No Livestock Grazing Area within Steens Mountain Wilderness [Sections 113(e)(2), and 201(d) (2)] occurred after 2004, grazing use was discontinued on surrounding public lands by the 2005 grazing season. Harney County designated these private lands for agricultural use. Specific tax advantages exist for private landowners if these lands are used for agricultural purposes (typically livestock grazing in this area of Harney County). Should private landowners desire to make use of their private lands for livestock grazing purposes, BLM must implement the Steens Act provisions concerning reasonable access.

Given grazing of livestock has occurred on the inholding and this parcel is zoned for agricultural uses, grazing of livestock would be considered a reasonable use of the inholding for which the BLM would provide reasonable access to accommodate, as required by the Steens Act, CMPA RMP and Steens Mountain Wilderness and WSRs Plan. The Interior Board of Land Appeals (IBLA) in their affirmation of the 2004 BLM Decision on Ankle Creek Inholder Access found that reasonable access is not the same as unfettered access in which the IBLA opinion stated, "...landowner appellants' claim to unfettered, unrestricted, unlimited access is clearly overbroad and inconsistent with the Steens Act." (172 IBLA 51)

Map 1. Location of Proposed Project



Reasonable access would be by authorization letter from the authorized officer or by Cooperative Management Agreement between BLM and the landowner. Terms and conditions defining routes of travel, days authorized for crossing, and/or other reasonable access restrictions, would be part of any authorization for access following discussions with the property owner.

**Proponent or applicant name.**

Natures' Advocate, LLC owns one parcel of land within Steens Mountain Wilderness near Fish Creek containing 635.51 acres. On June 10, 2008, the landowner verbally indicated an interest in stocking domestic sheep on this parcel to maintain an agricultural tax deferral.

The parcel listed in the previous paragraph is surrounded by Steens Mountain Wilderness, and in particular, the No Livestock Grazing Area, which was established under Section 111(e)(2) of the Steens Act. The area is rugged and no vehicle routes suitable for trucking livestock to private inholdings exist.

**Purpose of and Need for Action.**

The purpose of the action is to provide the owner of private land located in Township 33 South, Range 32.75 East, portions of Sections 5, 6, and 8, with reasonable access across public land managed by the BLM. The need for the action is established by the BLM's responsibility under the Steens Act to provide reasonable access to owners of land or interests in land within Steens Mountain Wilderness. Management direction in the CMPA RMP and Steens Mountain Wilderness and WSRs Plan states BLM will provide reasonable access to private inholdings while minimizing impacts to wilderness characteristics.

**Conformance with Land Use Plans, Laws, Regulations and Policy:** The proposal is in conformance with State, Tribal, Federal and local land use plans, regulations and other authorities, specifically:

- √ Steens Mountain Cooperative Management and Protection Act of 2000
- √ Steens Mountain Cooperative Management and Protection Area Resource Management Plan and Record of Decision (2005) (as stated above regarding inholder access, and pages RMP-75, objective 3; RMP-46, objective 1; RMP-13, Land Use Plan Goals)
- √ Steens Mountain Wilderness and Wild and Scenic Rivers Plan, page 53 (2005)

**Major/controversial issues.** Congress' designation of the first No Livestock Grazing Area within a designated wilderness could be affected by livestock use through crossing authorizations.

Affects may be lessened if the crossing is strictly limited to specific routes with limited timeframes and requirements for the private stock owner to prevent unauthorized livestock grazing in the No Livestock Grazing Area. Strict limits, however, are controversial to the private landowners, who seek the freedom to use private inholdings as they deem appropriate. Livestock grazing of private lands is a historic use that occurred for over 100 years prior to the Steens Act. Wilderness users, who fostered the passage of the Steens Act, value the No Livestock Grazing Area and seek continued integrity of an ecosystem recovering from grazing by nonnative species (livestock), and may feel offended by presence of livestock crossing through an area from which they thought livestock was prohibited.

Clearly, land acquisition (land exchanges, land sales, donations, conservation easements, incentive payments) cannot be forced on landowners, as no authority exists to compel such. Section 122 (d) of the Steens Act specifically states, "Nothing in this Act is intended to affect rights or interests in real property or supersede State law." Further, Section 114(a)(2) provides that "lands may be acquired under this subsection by voluntary exchange, donation or purchase from willing sellers." Costs for land acquisition have not yet been provided, although proposals for Land and Water Conservation Funds (LWCF) have been made each year by the Burns District BLM office. Land exchanges that implemented the Steens Act in 2000 (Title VI) are sometimes controversial in themselves, and legislated exchanges are not available to the BLM. Rather, for BLM to act it must use administrative processes that can take up to 3 years to complete. This timeframe begins after an acceptable proposal is negotiated between the two parties. Availability of selected lands (public lands that would be traded to the private landowner in order to obtain the Fish Creek inholdings) is undetermined, as private landowners have not presented "selected lands" to BLM for formal consideration under any administrative land exchange. Selected lands of first choice to private landowners may not be available for exchange or may otherwise complicate and make the transaction controversial. Costs to fully purchase or provide conservation easements have not been determined (a fair market value appraisal can be obtained following landowner permission to enter lands for inspection purposes). An incentive payment to match the difference in property taxes for this property surrounded by the No Livestock Grazing Area would be several thousand dollars on an annual basis. Funding to provide for conservation incentive payments has not been provided to BLM specifically through Congressional appropriations; however, use of these funds has been authorized through the Steens Act [Section 122 (c)]. Other BLM projects or personnel would not likely be funded if incentive payments were made using Federal funds. However, other organizations or individuals may be interested in providing incentive payments that preclude the need for livestock crossing through the No Livestock Grazing Area.

It is desirable to move livestock across the No Livestock Grazing Area as rapidly as possible, although it is not reasonable to expect a quick passage from livestock and herders unfamiliar with the terrain. It is reasonable to anticipate some level of stray from livestock; however, it should be expected the livestock operator and landowner would be required to exercise a reasonable level of responsibility in their control of livestock.

There are costs associated with moving to and restricting livestock to private lands, which would be the responsibility of the private landowners. This issue in itself may be controversial, as the Steens Act [Section 113(e)(2)] indicates that BLM would “be responsible for installing and maintaining any fencing required for resource protection within the designated No Livestock Grazing Area.” The BLM has interpreted this to mean the cost of fencing between the grazed portion of public lands and the no livestock grazing portion of public lands (example Kiger Gorge fence lies between the East Ridge Allotment and the no livestock grazing portion of Steens Mountain Wilderness), but not boundary fencing of enclosed private lands.

The BLM regulations for grazing prohibit livestock use of public lands without authorization [43 CFR § 4140.1(b)(1)(i)]. Costs of monitoring livestock crossing would accrue to BLM.

The type of livestock that crosses public lands to access the inholdings may be a concern if domestic sheep, goats, or horses are stocked. Sheep and goats may carry disease (pneumonia) that can be transmitted to wild bighorn sheep populations on Steens Mountain, if domestic sheep are moved closer to wild bighorn sheep populations than currently exist. However, the Fish Creek parcel is located adjacent to an existing domestic sheep herd, grazed largely on other private lands, and new disease transmission risk appears to be very slight over the risk that currently exists. Domestic horses can transmit disease to wild horses in some cases as well. The No Livestock Grazing Area occupies portions of South Steens Herd Management Area (HMA). Weeds can be transported by livestock into areas that would not be accessible by roads, resulting in greater cost for monitoring and treatment.

Stocking of private lands, however, is at the discretion of the private landowner, and use of these lands was historically by a wide variety of livestock.

### **Briefly describe decision to be made.**

The BLM will decide how to provide reasonable access, and under what terms and conditions. Although the selection of route reasonableness and type of livestock are dependent on the landowners’ preference, alternative strategies to provide access for livestock through the No Livestock Grazing Area of Steens Mountain Wilderness would define possible routes, as well as the addition of measures to mitigate effects of access. These measures are described as Design Features in Chapter II below and include timeframes for transit and other terms and conditions to limit undesirable environmental effects to the No Livestock Grazing Area wilderness and natural resources contained therein. An alternative describing various ways to preclude the necessity of livestock access is also analyzed in this document to the extent they are reasonable strategies. See full descriptions of alternatives in Chapter II and affected environment and environmental consequences analyses in Chapter III.

### **Decision Factors.**

In addition to requirements of law, regulation and land use plans, the decision to provide reasonable access would also consider the following decision factors. Decision factors are to help the decision maker decide *which* alternative would *best* meet project objectives and other management needs.

- i. Would the needs of the landowner to make the reasonable use of private lands or interests in lands be met by this action?
- ii. Would the effects of this action to wilderness, including the No Livestock Grazing Area wilderness, be minimal?
- iii. Would this action prevent the unauthorized livestock use of public lands?
- iv. Would this action prevent or limit adverse effects to wildlife, wild horses or other natural resources?
- v. What is the cost of this action to the public, e.g., monitoring, or cost to public if bighorn sheep were exposed to disease?
- vi. What is the cost of this action to the landowner, e.g., tax bill, construction of fencing, or cost of herders?
- vii. Is the implementation of this action practical?
- viii. Does the timeframe for implementation meet the need of the project?

## CHAPTER II. ALTERNATIVES INCLUDING THE PROPOSED ACTION

### **No Action Alternative**

This alternative is only applicable in the event a landowner determines he/she would not use their private lands for livestock grazing in any particular year. In this case, BLM would not provide an authorization for livestock crossing through the No Livestock Grazing Area within Steens Mountain Wilderness. Given grazing of livestock has historically occurred on the inholdings and they are zoned for agricultural uses, grazing of livestock would be considered a reasonable use of the inholdings for which the BLM would provide reasonable access, as required by the Steens Act, CMPA RMP and the Steens Mountain Wilderness and WSRs Plan. Analysis of the No Action Alternative provides a baseline from which to compare environmental effects of alternative actions.

### **Access Alternative (Route 1), Proposed Action**

**Fish Creek Parcel** – The route from Natures’ Advocate, LLC owned private lands in Fish Creek Valley west to the enclosed Fish Creek parcel would be approximately one-half mile across the No Livestock Grazing Area within Steens Mountain Wilderness. If the Fish Creek parcel landowner uses sheep to graze the inholding, the domestic sheep herd that currently uses the consolidated Fish Creek private lands is proposed as the source of sheep. One day travel each direction would be authorized with flexibility provided for complete removal of livestock from public lands an additional 2 days.

## **Access Alternative (Route 2)**

**Fish Creek Parcel** - The landowner currently stocks cattle on his primary ranch at Silvie Valley, and may wish to stock cattle instead. If this is the case, trucking cattle via the North Steens Loop Road to within 9 miles of the inholding is possible, and herding would be necessary across 9 miles of the No Livestock Grazing Area. Cattle could be offloaded at the Cold Springs Road intersection of the North Loop Road, and would be trailed south and west to access the Fish Creek parcel. Two days travel each direction would be authorized, with flexibility provided for complete removal of livestock from public lands for an additional 4 days.

## **Design Features of the Proposed Action (Route 1) and Access Alternative (Route 2)**

**Reasonable Access – Livestock Trailing Authorization** would contain the following terms and conditions:

**Livestock travel across public lands** would be limited to the most reasonable timeframe to assure proper and safe livestock movement, and limit effects to the Wilderness Resource. Routes themselves are rugged and require time to negotiate, particularly for livestock unfamiliar to trailing in these areas. Livestock would be moved quickly through riparian areas, and would not be permitted to remain in riparian areas at night during transit.

**Control of livestock when trailing** would be required to prevent extended travel timeframes, excessive incidental grazing, and stray of livestock. It is the responsibility of the landowner to assure livestock traveling to private lands do not remain on public lands, nor stray continually onto public lands for grazing purposes. Only incidental grazing associated with trailing is permitted. All other grazing is unauthorized. Sufficient number of herders or other livestock controls would be requested. For a band of sheep, at least one herder with stock dogs would customarily accompany the livestock. A group of cattle would customarily be accompanied by at least two wranglers with or without stock dogs. No authorization of motorized vehicles would be part of any livestock crossing or trailing permit across public lands.

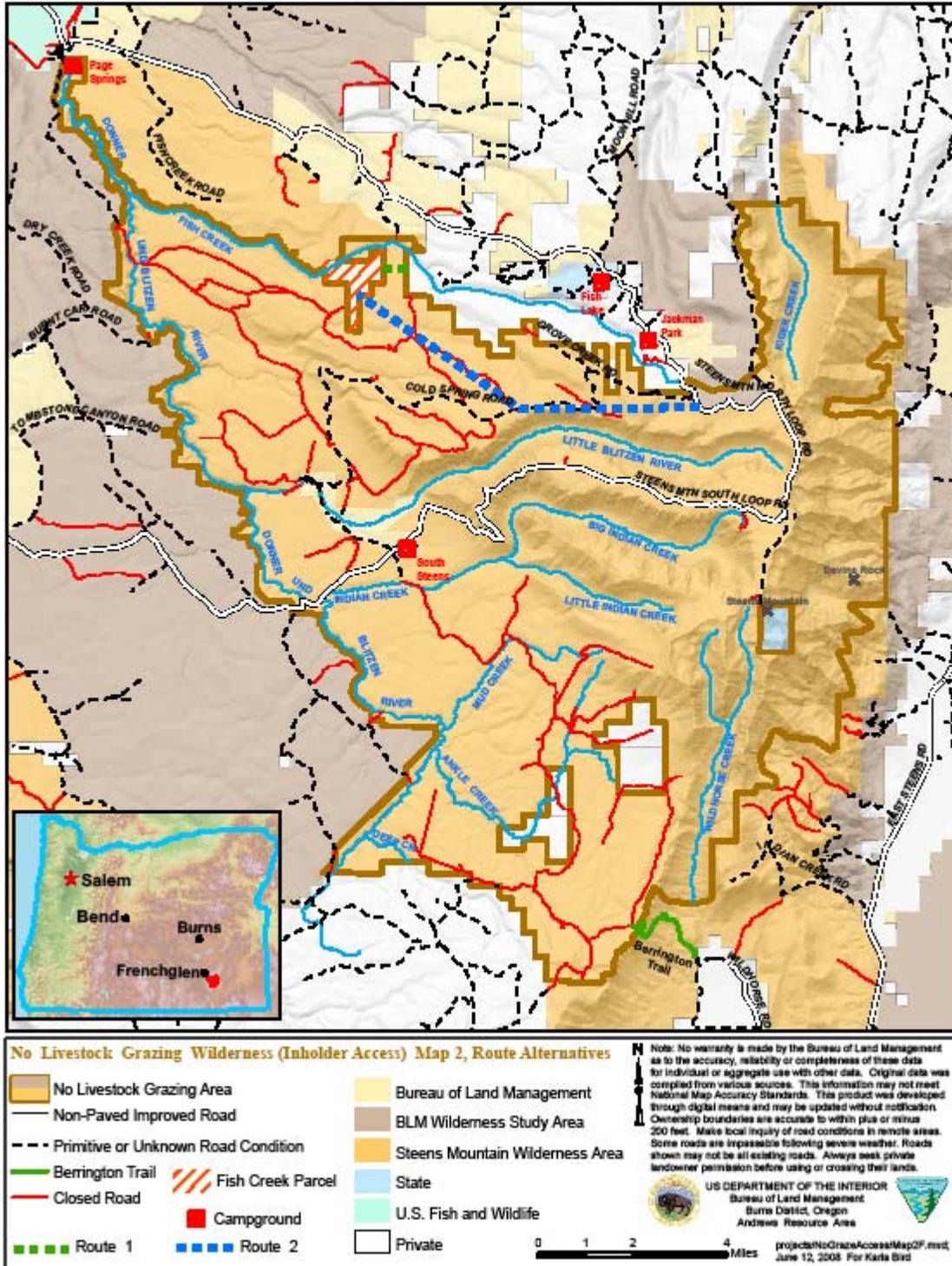
**Control of livestock when on private lands** would be required to prevent unauthorized grazing use of the surrounding No Livestock Grazing Area. Fencing, herding, or other proven method would be required as a term and condition of the authorization. If fencing is not provided, then herders must work across 24 hours and use GPS navigators or property markers to assure livestock are herded only on private lands. Fencing constructed on private lands would require fencing of up to 5 miles of perimeter and may be dependent on helicopter delivery of materials to some areas, as a motorized route is not available through to the property. The owner of the Fish Creek parcel intends to survey and mark the boundary lines of the private property to assure the shepherd knows where private lands and public land boundaries are located.

**Notice of Trailing Activity** would be requested by BLM, at least 3 days prior to trailing. Contact between the landowner, livestock operator, and BLM is critical to resolve issues and assure monitoring takes place during initial trailing and during grazing of private lands.

**Monitoring** by BLM, BLM contractors, or BLM volunteers would occur during the initial livestock trailing, and periodically during the grazing period on private lands. This requirement is necessary to assure the integrity of the No Livestock Grazing Area within Steens Mountain Wilderness is protected. The frequency of monitoring would be dependent upon discovery of any issues during the initial trailing activity.

**Notice of unauthorized grazing** would be provided by BLM to the landowner and livestock operator as soon as practical (same day if contact can be made). This notice is to request the operator to retrieve livestock. Removal of unauthorized livestock would be required to occur as soon as practical. If prompt livestock retrieval did not occur, livestock trespass proceedings would be initiated as necessary under (43 CFR 4140 subpart (b)(1)(i)).

Map 2. Route Alternatives



**Guidelines 5, 6, 7 for management of bighorn sheep** would be applied as terms and conditions of the authorization to trail livestock across public lands to the Fish Creek parcel. (See Chapter III, Wildlife Section.)

**Assumptions:** Livestock numbers would be established by the landowner, the landowner would successfully keep livestock on private lands, and would timely respond to any issues of inadvertent trespass when notified by BLM monitoring personnel.

**Alternative Action to Preclude Livestock Grazing on Private Lands – Acquire private land or interests in private land for the public:** This alternative requires willing sellers, and is only applicable if the landowner decides to agree to a land exchange, donation or sale, or conservation easement that would transfer lands or the rights for livestock grazing/agricultural use to the BLM, to a Non-Government Organization (NGO), or private party that agrees not to use the private lands for agricultural/grazing purposes. This alternative would preclude the need for reasonable access – livestock trailing across the No Livestock Grazing Area within wilderness for a temporary or permanent timeframe, dependent on the instrument selected.

**Incentive Payment** – Should the private landowner agree not to trail to or stock private lands with livestock in exchange for an incentive payment from the BLM or another party, then some or all of the subject lands in the Fish Creek Area would no longer be needed for private agricultural purposes to be consistent with Harney County designation. Incentive payments may be up to \$3,440 for the Fish Creek parcel to match the difference in property taxes for this property surrounded by the No Livestock Grazing Area on an annual basis. This would be a temporary solution and would require the landowner to apply for payment each year. This would be provided for up to a 5-year period if the landowner and BLM are actively working to negotiate a land exchange, purchase, or donation. The Steens Act [Sec 122(c)] provides authority for conservation incentive payments that could range from the difference in tax rates between grazed and ungrazed private lands to include other reasonable compensation for not using lands for agricultural purposes. The incentive payment would be contingent upon availability of funds, but would not be a Federal action subject to NEPA.

**Land Exchange** – Should the private landowner and the BLM agree on offered (private) and selected (public) lands that would be exchanged, a land exchange process would be initiated, including public notice and comment under additional NEPA analysis and land exchange regulations (including appraisal). As an end result, some or all of the subject lands in the Fish Creek Area would no longer be needed for private agricultural purposes. If an agreement for a land exchange cannot be negotiated under appropriate procedures, this measure is not applicable. In any administrative land exchange, site-specific environmental effects of a land exchange would be analyzed in a separate NEPA document.

**Land Purchase/Donation** – Should the private landowner agree to sell or donate lands to BLM (at appraised fair market value) or to another party (other government, NGO, or private party), and the non-BLM buyer of the land agrees not to graze these inholdings, then some or all of the subject lands in the Fish Creek Area would no longer be needed for private agricultural purposes.

**Conservation Easement** – Should the private landowner agree to provide a conservation easement to BLM or to an appropriate entity (governed by State Law), agree through that conservation easement to give up agricultural use rights to private inholdings, and the holder of these rights agrees they not be used in perpetuity, or some shorter term, then some or all of the subject lands in the Fish Creek Area would no longer be needed for private agricultural purposes for the term of the easement. Note: If the LWCF is used to acquire a conservation easement, then the conservation easement is held in perpetuity, and cannot be temporary or time limited.

**Briefly describe alternatives considered but not analyzed further.**

**Denial of Crossing by Livestock** is not considered a viable alternative, as reasonable access to private lands is provided by the Steens Act. This alternative would require a change in legislation. However, the No Action Alternative seeks to describe the environmental effects of not having livestock cross through the No Livestock Grazing Area to reach private lands.

**Ignoring Crossing by Livestock** is not considered a viable alternative, as the definition of reasonable access is not the same as unfettered access. The IBLA in their affirmation of the 2004 BLM Decision on Ankle Creek Inholder Access found that “landowner appellants’ claim to unfettered, unrestricted, unlimited access is clearly overbroad and inconsistent with the Steens Act” [Oregon Chapter of the Sierra Club, et al., (172 IBLA 51)] .

**Requirement for Specific Livestock Class** is not considered a viable alternative, as landowners have the authority to determine the selected species of livestock on their own properties. If any class of livestock were determined to potentially cause a significant effect to the environment, then an Environmental Impact Statement (EIS) would be required to properly assess environmental effects.

**Access route directly south from North Loop Road across Fish Creek** is not considered due to the steep, rocky and inaccessible canyon at Fish Creek that could not be successfully negotiated by herded livestock.

**Public Comment from Scoping period.** Public scoping was initially held for multiple private parcels within the No Livestock Grazing Area within Steens Mountain Wilderness. Subsequent discussions with specific landowners resulted in only one proposal for livestock crossing for 2008. This Environmental Assessment (EA) is limited to the proposal to cross the No Livestock Grazing Area within Steens Mountain Wilderness into the Fish Creek parcel. Scoping comments received concerning the Ankle Creek parcels are retained for future consideration in the event the Ankle Creek landowner determines a need to cross with livestock into private parcels in future years.

A scoping letter was mailed to several dozen addresses on April 8, 2008, and the scoping letter was posted on the BLM Burns District Web site. Unfortunately there was an error in the posted e-mail address for comments (the address shown on the letter was or-ea-access@blm.gov; the correct address was actually or\_ea\_access@blm.gov). When our office was contacted, an alternative e-mail address was provided. The advertised scoping period was extended through May 5, 2008. However, additional comments were received after the scoping period and were considered until completion of the EA. As a result of scoping, several comment e-mails, letters and phone calls were received from landowners and their representatives, Oregon Department of Fish and Wildlife (ODFW), Oregon Chapter of the Foundation of North American Wild Sheep, Oregon Chapter of the Sierra Club, Wilderness Watch, and a few individuals.

Scoping issues raised include the need for monitoring to prevent adverse effects during livestock trailing, potential for spread of weeds, opportunities for incentive payments in lieu of access, alternative access strategies, cumulative effects to wilderness from a variety of access decisions and proposed access, fence construction responsibilities, potential adverse disease impacts to wild sheep in the presence of domestic sheep herds, and Wilderness Act prohibitions on construction of new facilities in wilderness.

The EA seeks to address the issues raised during the public scoping period specific to the Fish Creek parcel, as well as issues of concern to the interdisciplinary team.

### CHAPTER III. AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

The environmental consequences discussion describes all expected effects including direct, indirect and cumulative on resources from enacting the proposed alternatives. A distinction between direct and indirect effects is not made in this chapter and in many cases cumulative effects are only described as effects. All effects are considered direct and cumulative; therefore, use of these words may not appear.

This document is tiered to the Andrews Management Unit (AMU)/Steens Mountain CMPA Proposed RMP/FEIS (Andrews/Steens PRMP/FEIS) (August 2004). The environmental consequences and cumulative effects sections in the Andrews/Steens PRMP/FEIS describe potential environmental consequences to the greater environment of the public lands surrounding the Fish Creek parcel and are incorporated into this document by reference in accordance with the CEQ regulations § 43 CFR 1502.2. Additional project-specific descriptions of potential environmental consequences are provided in the text below.

***Past, Present and Reasonably Foreseeable Future Access Activities:*** The geographic area considered for cumulative effects of access activities is the No Livestock Grazing Area in Steens Mountain Wilderness.

Authorized access into the Ankle Creek properties which are also located in the No Livestock Grazing Area and is more than 10 miles south of the Fish Creek parcel, was provided by Decision of the Andrews Field Manager dated June 24, 2004. This decision covered motorized access into the Ankle Creek properties which are currently owned by High Desert Aspens, LLC and Central Oregon Land, LLC. Motorized access is allowed generally during the summer season, when the Ankle Creek route does not sustain damage. Maintenance is limited to those methods and actions that do not improve the route to a level of use or visibility greater than was in effect at the time of wilderness designation (October 30, 2000). The BLM has monitored use of the Ankle Creek route since motorized access was authorized, and only a few motorized vehicle trips use this access route on an annual basis.

Access across Steens Mountain Wilderness by saddle and pack stock, including horses, mules, llamas, and pack goats is not prohibited. For recreational uses, saddle and pack stock are limited to 18 head and a 14-day stay in the wilderness area. Most saddle and pack stock use of the No Livestock Grazing Area occurs in the Little Blitzen and Indian Creek gorges, and some increasing use occurs in Ankle Creek Basin and Wildhorse Canyon. Infrequent use of the Fish Creek Area is made by saddle and pack stock, although some is by at least one Special Recreation Permit holder.

A few remaining motorized access issues remain to be considered under site-specific environmental analyses or site-specific route decisions. Pending decisions on access concerning Berrington Trail and snowmobile access into the Ankle Creek properties (EA OR-05-027-085, April 2005) are currently on hold due to ongoing negotiations that may lead to land exchanges resulting in eventual public ownership of some or all of the Ankle Creek Basin private inholdings.

Issues not analyzed include the following critical elements of the human environment that are not known to exist or to be affected by the proposal: Areas of Critical Environmental Concern, Air Quality, American Indian Traditional Practices, Flood Plains, Hazardous Materials, Paleontology, Wild and Scenic Rivers, and Prime or Unique Farmlands. Environmental Justice would also be unaffected by this proposal.

Executive Order 12898 requires Federal agencies to adopt strategies to address Environmental Justice concerns within the context of agency operations. After review of the proposal the BLM has determined implementation of the proposal would not result in a disproportionately adverse effect on minority or economically disadvantaged populations as such populations do not occur in or near the project area. Environmental Justice will not be discussed further in this document.

The following issues are present and may be affected by all or some of the alternatives:

A. Critical Elements

1. Cultural

Affected Environment:

Current discussion and analysis of potential effects on cultural are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.9 and 4.9.

The No Livestock Grazing Area in Steens Mountain Wilderness has not received a high level of cultural resources survey. Research surveys in the late 1970s, inventories for reservoirs, spring and rock source developments are the primary sources of cultural resource data in the area.

No paleontological resources or American Indian Traditional Use areas are known to occur within the project area.

Environmental Consequences:

Livestock movement from trailing activities causes trampling effects. Effects from cattle and horses are generally more impacting than sheep due to animal weight. The number of animals is also impacting on prehistoric cultural sites that may not be identified prior to livestock trailing uses. Except for the designation of the No Livestock Grazing Area, much of the remaining public lands in the CMPA are grazed by livestock. Cultural resource inventories are usually limited to inventory, monitoring effects of proposed constructed projects (fences or water developments), and associated livestock concentration areas, or rangeland restoration project activities which cause direct effects to cultural artifacts.

No Action Alternative:

No added impact from temporary livestock trampling effects would occur. Recreational saddle and pack stock trampling effects would continue to occur on trails and at campsites.

Common to Route 1 and Route 2 Alternatives:

Temporary, low level livestock and associated horse trampling effects to archaeological resources would occur as a result of this alternative. On private lands, areas of historical concentrated ungulate use (water sources) would continue receiving concentrated use. Trampling effects from livestock and horses on public lands would likely be similar, but less than occurred due to seasonlong livestock grazing prior to elimination of public land grazing allotment use.

Limitations on trailing timeframes and monitoring of livestock presence would provide measures to limit duration and location of livestock trailing effects. Any fencing of private lands required could cause effects to cultural sites during construction activities and post-construction livestock trailing along fencelines.

Preclude Livestock Grazing Alternative:

Activities to acquire private lands into public ownership or to otherwise preclude agricultural use of private inholdings would preclude livestock trampling and congregation effects to cultural resources on public and private lands. Fencing of these inholdings would not be required if inholdings passed to public ownership, or incentive payments were used.

Generally there would be no adverse effects to cultural resources from land acquisition, except for exchanges where there could be a loss of cultural resources from public ownership and management, dependent on the public lands selected. It is likely only cultural resources not eligible for listing on the Register of National Historic Places would be threatened by a land exchange. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

2. Migratory Birds

Affected Environment:

Current discussion and analysis of potential effects on migratory birds are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.6 and 4.6.

Approximately 70 species of migratory birds are known to inhabit different parts of the proposed project area. Neotropical migratory birds utilize all habitats in the project area; some are habitat specific while others use a variety of habitats.

Grassland species include vesper sparrow and horned lark. Sagebrush species include Brewer's sparrow, white-crowned sparrow, green-tailed towhee, sage thrasher, and sage sparrow. Woodland species include gray flycatcher, dusky flycatcher, dark-eyed junco, bushtit, Cassin's finch, pine siskin, western woodpeewee, and chipping sparrow. Species that may be found in two or more habitats include American robin, brown-headed cowbird, Lincoln's sparrow, lark sparrow, and western meadowlark. Most of these birds are only present from April through August each year but some species such as robins may be present during fall and winter months.

Environmental Consequences:

Migratory bird inventories are usually limited to inventory and monitoring potential effects of constructed projects (fences or water developments) and associated livestock concentration areas, or rangeland restoration project activities which cause direct effects to migratory birds.

No Action Alternative:

Within the No Livestock Grazing Area and Steens Mountain Wilderness, migratory birds are generally unaffected; except by temporary displacement when recreational hikers or equestrians walk by on trails or use campsites.

Common to Route 1 and Route 2 Alternatives:

Additional temporary displacement of migratory birds would occur when livestock are herded through habitats. This temporary displacement is considered minor. The season of livestock crossing into private lands would typically occur coincident with nesting season, and some nesting activity may be disturbed with the possibility of some nest abandonment during trailing activities depending on the length of time livestock spend in any one area such as overnight bedding grounds. Limits to timeframes of acceptable crossing duration would have the same effects.

Preclude Livestock Grazing Alternative:

Measures that preclude introduction of livestock onto private inholdings would prevent effects associated with temporary livestock herding through habitats. Effects would be similar to the No Action Alternative except with a land exchange where private inholdings would become public land but the public lands exchanged might constitute a net loss of habitat for migratory birds. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

### 3. Noxious Weeds

#### Affected Environment:

Current discussion and analysis of potential effects on noxious weeds are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.5.5 and 4.5.5. In addition, Steens Mountain Wilderness and WSRs Plan (2005) discussion of the affected environment, is referenced, P-38:

“Noxious weeds are present in limited amounts within Steens Mountain Wilderness and WSRs. The Burns District has an ongoing weed management program, which involves education/awareness, prevention, inventory, treatment, and monitoring. Disturbance, especially along roads and other transportation corridors is the primary contributor to introduction and spread of weeds. Biological spread through birds or mammals also plays a minor role. The Burns District weed management program incorporates a variety of treatment options including manual, chemical, mechanical, and biological methods of control.”

The proposed project area is quite susceptible to introduction and spread of noxious weeds. Many waterholes in the Steens Mountain Area already have infestations of Scotch thistle. Depending on climatic conditions in any given year, weed infestations range from slightly to extremely problematic. Once Scotch thistle establishes in an area, the seed can be viable on site for 25+ years. Seeds are windborne and can travel considerable distances. Spotted knapweed and other noxious weeds cause similar infestations, which even when treated, may last for years and years.

#### Environmental Consequences:

Any new ground-disturbing activities, including reestablishment of limited and temporary livestock use through trailing in the No Livestock Grazing Area, have potential to create opportunities for noxious weed establishment and spread. Productive, healthy plant communities should reduce opportunities for noxious weed introduction and spread.

Effects of livestock trailing may be positive or negative, depending on the species, origin of the livestock prior to trailing through the area, whether or not sheep are freshly shorn (to reduce the likelihood of weed seed transported in wool), and whether or not stock have been dry lotted (fed on weed-free hay) for 5 days prior to entry onto rangelands.

No Action Alternative:

Limited amounts of noxious weeds are currently present within the area and require continued monitoring and treatment. Canada thistle and Scotch thistle would continue to be treated at isolated locations. Monitoring of activities that may result in detection of new noxious weed infestations is typically limited to that associated with recreational uses in the wilderness area, or that may be detected by the range rider or other resource program personnel who may be in the area.

Common to Route 1 and Route 2 Alternatives:

Sheep would effectively select spotted knapweed plants and have been known to reduce the ability of this noxious weed to spread, which could be a positive effect on rangelands. Sheep grazing effects on thistles are less effective. Sheep's wool can transport new weed seeds and create an adverse impact to rangelands if new weed seeds are introduced.

Weed seeds are commonly carried in the digestive tracts of these livestock. Depending on the origin of these livestock, weed seeds may be introduced into the affected rangelands.

Timing to limit the days used by trailing livestock would limit the effect to rangeland vegetation. Healthy habitats are less susceptible to new weed infestations.

New livestock trailing would be accompanied by BLM monitoring personnel, assigned to both view ongoing trailing activities, as well as look for new weed infestations along trailing routes in future years. Having monitoring personnel in the area would increase the opportunity to observe, and eventually treat noxious weed infestations that may begin in the area related to reasonable access uses, have been spawned by recreational uses, or via native birds and mammals. Treatment of weed infestations in wilderness areas is constrained by wilderness rules, and frequently, more expensive and more time-consuming measures to reduce motorized and mechanized effects on wilderness qualities are used.

Preclude Livestock Grazing Alternative:

Measures to preclude the use of private inholdings for livestock grazing would generally prevent introduction of new weed seeds from this source.

Weed control may not occur on public lands exchanged into private ownership, threatening other adjacent public lands not involved in the exchange. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

#### 4. Special Status Species

##### Affected Environment:

Current discussion and analysis of potential effects on Special Status Species (SSS) are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 4.7.1 (Plants), 4.7.2 (Animals), 4.7.3 (Fish) and 4.7.4 (Redband Trout Reserve).

Special Status animal species occurring within this project area include Greater sage-grouse, Swainson's hawk, Preble's shrew, several species of bats, and sage sparrow. Mountain quail, which were recently reintroduced on Steens Mountain, are known to occupy areas near the proposed project area.

Greater sage-grouse are known to use the No Livestock Grazing Area for nesting, brood rearing, and late fall to early winter habitat. Nesting occurs from April through June each year. There are no known leks in the area of the proposed action.

Bighorn sheep were considered an Oregon/Washington BLM SSS until recent reclassification by the Oregon Natural Heritage Program and the OR/WA State Office of the BLM removed them from this list. The U.S. Fish and Wildlife Service still consider bighorn sheep a Species of Concern and the Oregon Natural Heritage Information Center classifies them as a List 4 species. Both of these rankings show bighorn sheep populations are currently stable but the species is still of conservation concern and populations need to be continually monitored. The discussion of this species is located in the Wildlife section of this document.

There are no known Federal, Threatened, or Endangered or BLM Special Status plant populations along any of the proposed trailing routes.

Redband trout, a Bureau Sensitive species, inhabits Donner und Blitzen River, including Ankle Creek, Indian Creek, and Fish Creek, as well as Wildhorse Creek within the geographic area. The species presents a unique natural history, reflecting the Pleistocene connection between lake basins of eastern Oregon and Snake and Columbia Rivers.

Redband trout are able to survive warmer water better than most other salmonids and thus are better adapted to a desert environment. Only Fish Creek and the Donner und Blitzen River are downstream of the Route 2 Alternative which would cross Little Fish Creek.

The Steens Act designated Donner und Blitzen River, including Fish Creek and Ankle Creek as a redband trout reserve upstream of the confluence with Fish Creek. The purpose of the reserve is to conserve, protect, and enhance the Donner und Blitzen River population of redband trout and the unique ecosystem of plants, fish, and wildlife of a river ecosystem; and to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation and access (Steens Act 2000).

Environmental Consequences to Special Status Species:

No Action Alternative:

Since livestock would not be trailing across public lands to private inholdings in the wilderness, there would be no effects to any SSS.

Common to Route 1 and Route 2 Alternatives:

Greater sage-grouse, Mountain quail, Swainson's hawk, Preble's shrew, several species of bats, and sage sparrow would only be temporarily displaced by trailing and overnight bedding of livestock on public lands. Only minor and temporary effects would be expected.

Redband Trout - Since effects to redband trout would be the result of effects to water quality (temperature or increased sediment), and water quality would not be measurably affected by any of the project alternatives, no effects to redband trout or redband trout habitat are anticipated for any of the alternatives.

Preclude Livestock Grazing Alternative:

Since there would no longer be a need to trail livestock across public lands to private inholdings in the wilderness, there would be no effects to any SSS. Land exchanges in the Preclude Grazing Alternative, where private inholdings would become public land, the public lands exchanged might constitute a net loss of habitat for SSS. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

5. Wilderness

Affected Environment:

Steens Mountain Wilderness was established in Title II of the Steens Act. Section 202 (a) General Rule – The Secretary shall administer the Wilderness Area in accordance with this title and the Wilderness Act (16 U.S. C 1131 et seq).

In Section 113(e)(2), the Secretary was directed to cancel permitted grazing on Federal lands within the area designated as the 'no livestock grazing area.' The area of interest through which private landowners wish to trail livestock for this analysis, is part of the 'no livestock grazing area.'

Steens Mountain Wilderness is managed in accordance with Steens Mountain Wilderness and WSRs Plan (2005) as well as the Steens Mountain CMPA RMP ROD (2005).

a. Naturalness:

Portions of wilderness that could be affected are in outstanding natural condition. Some unnatural features exist throughout, including corral remnants, fences, troughs, juniper cuts, and closed jeep roads. The affected portion of the wilderness is closed to livestock grazing permits.

Old two-track routes or trails may be located near the Fish Creek inholding. Since grazing permits were cancelled on Federal lands in this area, vegetation has grown without the impact of seasonal livestock grazing. In the past where up to 50 percent average annual growth of forage crops was removed by livestock grazing, only wildlife and recreational saddle and pack stock have had access to forage crops for grazing. The historic effects of annual livestock grazing have been eliminated from this area for approximately 3 years.

b. Solitude:

Opportunities for solitude and natural quiet are enhanced by the area's remoteness along with a varied and rugged topography. Shallow drainages, vegetative screening provided mainly by juniper trees, and the vast landscape contribute to a visitor's sense of seclusion. The present condition during the winter is one of nearly complete solitude. Solitude is also high during most of the rest of the year with the exception of hunting season when use is generally the highest. The isolated area is usually devoid of the sights and sounds of human activity with the exception of occasional overflights of aircraft and from backcountry visitors. Wilderness visitors are rare during the winter months to this portion of Steens Mountain Wilderness given the relative route inaccessibility into the area.

c. Primitive and Unconfined Recreation:

Opportunities for primitive and unconfined recreation are outstanding throughout and include day hiking, backpacking, horseback riding, hunting, fishing, photography, and nature study. The Fish Creek Area is less frequently visited than other places within the Steens Mountain Wilderness Area. Most recreational wilderness use is in the Big Indian and Little Blitzen Gorges.

d. Supplemental Wilderness Values:

Special features enhancing the area's wilderness values include geology, vegetation, wildlife, and scenic qualities. Bighorn sheep and redband trout are some of the wildlife values noted in Steens Mountain Wilderness.

Environmental Consequences:

Effects Common to All Alternatives:

Under the Wilderness Act, livestock grazing is an authorized use of many wilderness areas in the United States, including Steens Mountain Wilderness. Therefore, except for the No Livestock Grazing Area established by Congress in the Steens Act, there would be little controversy over allowing private landowners to trail livestock onto their private inholdings. Limited livestock trailing, if appropriately controlled by private landowners, and effectively monitored by BLM would have little effect on general wilderness values; but a larger perceived effect on the No Livestock Grazing Area. In addition to effects associated with trailing, some visitor's experience may be negatively affected by the presence of livestock on inholdings given the expectation of there being no livestock present in the No Livestock Grazing Area.

Supplemental wilderness values including wildlife and vegetation would be temporarily affected by livestock trailing activities. If disease is spread to bighorn sheep from domestic sheep, that species (which is part of the Steens Mountain supplemental wilderness values) would be adversely affected; however, this is not anticipated to be a likely effect from sheep use of the Fish Creek parcel.

No Action Alternative:

If trailing of livestock onto private inholdings does not occur, there would be no effects of bringing livestock through the No Livestock Grazing Area of Steens Mountain Wilderness. Naturalness would continue to increase as historic effects of livestock grazing become less evident over time. Solitude would remain at high levels due to infrequent visitation by hikers and equestrian groups. Opportunities for primitive and unconfined recreation would remain unaffected.

Common to Route 1 and Route 2 Alternatives:

The geographic cumulative effects area considered the entire Steens Mountain Wilderness. Cumulative effects of motorized access allowed through the Ankle Creek Area (Ankle Creek Inholder Access Decision, June 2004); permitted motorized access associated with livestock permits in other areas of Steens Mountain Wilderness, and potential addition of new motorized access permits [under consideration, including Berrington Trail and Snowmobile Access EA (2005)], all would affect Steens Mountain Wilderness cumulatively with the addition of livestock access across the No Livestock Grazing Area. A result would be a cumulative adverse effect to naturalness, solitude, and opportunities for primitive and unconfined recreation; especially for Steens Mountain Wilderness users who choose to visit this area precisely because livestock are not to be permitted to graze on Federal lands in this area. Trailing uses would be a temporary addition to cumulative effects. The Steens Act provided for reasonable access into inholdings within the wilderness area, and the Wilderness Act and Steens Act recognize and allow in most wilderness areas for grazing to continue.

Route 1 Alternative:

Trailing a herd of sheep into the Fish Creek inholding would be evident to wilderness users and affect solitude. Affects to naturalness would be temporary in nature and trailing use may not be visible to an average observer, especially to someone removed from the immediate vicinity of livestock trailing activity. Opportunities for primitive and unconfined recreation would remain in most areas of wilderness, but be affected by proximal herding activities in the Fish Creek Area. However, recreational use in the area of the Fish Creek parcel is low, so chances of encounters with visitors during the trailing process would be limited.

Measures to assure control of livestock and to monitor control measures would help ensure effects to wilderness values are minimized while still providing reasonable access to landowners who desire to stock inholdings with livestock.

Route 2 Alternative:

Types of effects to wilderness values and visitors associated with presence of livestock as described for the route above would be the same; however, there would be more potential for encounters with visitors given more of the route is in the No Livestock Grazing Area.

Preclude Livestock Grazing Alternative:

Measures providing temporary preclusion from livestock use or permanent acquisition of a conservation easement or title to these inholdings would provide the most beneficial effects to all wilderness values, while compensating landowners for increased property taxes associated with deferment of grazing on their inholdings.

6. Water Quality and Wetlands/Riparian Areas

Affected Environment:

*Surface Water Quality Assessment*

The U.S. Environmental Protection Agency (EPA) delegated authority to Oregon Department of Environmental Quality (DEQ) to implement the Clean Water Act (CWA). The objective of the CWA is to restore and maintain the physical, chemical, and biological integrity of the nation's waters. To implement the CWA, the State of Oregon develops and adopts water quality standards, which include beneficial uses, narrative and numeric criteria, and antidegradation policies. Oregon's water quality standards are contained in Oregon Administrative Rules 340 Division 41. Section 303(d) of the CWA requires the State to identify those waters not meeting water quality standards, referred to as "water quality limited" or "impaired" and to develop Total Maximum Daily Loads (TMDLs). The TMDLs describe the amount of each pollutant a water body can receive without violating water quality standards.

Through a Memorandum of Agreement (MOA, USDI 2003), DEQ recognizes BLM as the Designated Management Agency responsible for implementing and enforcing natural resource management programs for the protection of water quality on public lands under its jurisdiction. This MOA recognizes nonpoint source water quality issues are best controlled through development, adoption, and implementation of sound resource management practices, referred to as Best Management Practices. The primary cause of water quality degradation on public land is nonpoint source pollution. To further the purposes of this MOA and the CWA, the U.S. Forest Service and BLM are implementing a protocol for addressing CWA Section 303(d) Listed Waters (USDA/USDI 1999). In coordination with the EPA, DEQ and other agencies, the BLM is implementing the protocol recognized as the vehicle for achieving water quality compliance.

The following perennial streams on public land would be crossed by livestock under the different alternatives:

- Route 1, *Fish Creek Parcel*: No perennial stream crossing
- Route 2, *Fish Creek Parcel*: Little Fish Creek

### Environmental Consequences:

#### No Action Alternative:

No effects to streamside shade, sediment or riparian vegetation cover and vigor would take place from trailing as authorized trailing would not occur.

Therefore, no effect to water temperature, sediment or riparian functioning condition would occur. Only occasional saddle and pack stock would affect wetland and riparian vegetation. Since camping is authorized within the affected area, hobbled horses or mules, or even llamas may forage or browse on riparian and wetland vegetation. These effects are monitored on an annual basis, in accordance with the Steens Mountain Wilderness and WSRs Plan (2005).

#### Route 1, Proposed Action:

No stream crossings on public lands would take place in this trailing alternative, and there would be no effects to water quality, riparian or wetland vegetation, beyond that described in the No Action Alternative.

#### Route 2 Trailing Alternative:

During spring or early summer trailing, when green grass and herbaceous vegetation are available, cattle are unlikely to seek-out shrubs and therefore no twig-browsing of shade-producing streamside vegetation is likely to occur. Sheep are most likely to browse forbs. Minor browse on shrubs and trees may occur during return trailing later in the season, when cattle are more likely to switch preference to shrubs and trees, but the affected portion along streams would likely be small, and animals would be moving during this time. Any effect on stream water temperatures would be difficult to detect, or simply not measurable.

Trailing use by livestock across and near streams may have temporary effects to streambank stability, depending upon bank composition and vegetative cover at crossing points. Minor, incidental grazing of riparian herbaceous plants would likely occur. However, since livestock would be more or less continuously moving, individual plants would likely be subject to single bites, utilization would likely be slight to light, and this very short-term grazing would be unlikely to affect vigor of riparian plant communities in current or future years. Riparian vegetation grows actively with available water and has the capability to rapidly recover after any temporary effects of trailing use.

Additional sediment is likely to enter streams at crossing points, but inputs would be limited to the period when livestock are actually crossing. Due to gradient of affected streams, sediment tends to be well-suspended and would flush through stream systems quickly. These sediment events are often invisible within a few hundred feet of the source, and are unlikely to add cumulatively to overload sediment balance in affected streams or influence water quality in any measurable (or meaningful) way. At some well-armored locations, where bank composition is mostly rock or dense grass cover, no additional sediment would be visible. A second flush of sediment from banks may occur during the next rainfall event depending on overland flow.

Since any additional sediment would occur in very brief flushes, water temperature would not be measurably affected, effects to streambank stability would be brief and limited to small areas, and health and vigor of riparian vegetation would not be measurably affected. Livestock trailing would not prevent attainment of DEQ water temperature standards in the future, or change condition or trend of riparian functioning condition.

Measures to assure quick trailing and control of livestock from accessing and using streams of Federal lands would limit the temporary effects to water quality or riparian functioning condition. Monitoring efforts would assure any problems are found and corrected as early as possible.

#### Preclude Livestock Grazing Alternative:

Measures to preclude livestock trailing and use on a temporary basis would prevent any adverse effects to water quality or riparian functioning condition. More permanent land acquisition and management of the entire area under the No Livestock Grazing Area would preclude future effects to streams on public lands.

Exchanges may result in loss of wetland/riparian habitat areas or loss of the ability to protect and improve water quality conditions on public lands exchanged. In any administrative land exchange, site-specific environmental effects of a land exchange would be analyzed in a separate NEPA document.

#### B. Noncritical Elements

The following noncritical elements may be affected by one or more of the alternatives: recreation, vegetation, wildlife, soils, and social and economic values.

1. Recreation

Affected Environment:

Recreation activities in the Fish Creek portion of wilderness include hunting, hiking, primitive camping, backpacking, and horseback riding. Typically, snow and locked gates limit access into this area in the late fall, winter, and spring. Most use occurs from mid-May to early November, with the majority of fall use being hunting by foot or horse. Hiking and equestrian use are infrequent in the Fish Creek vicinity. Activities outside wilderness along Cold Springs and Grove Creek Roads include driving for pleasure, sightseeing, and vehicle dependent camping.

Currently there are seven bighorn sheep tags issued by the ODFW for the two populations of wild sheep on the east rim of the Steens Mountain.

Environmental Consequences:

No Action Alternative:

Same as described for recreation in the Wilderness Section of this EA.

Common to Route 1 and 2 Alternatives:

Same as described for recreation in the Wilderness Section of this EA, and in the Social and Economic section of this EA.

Preclude Livestock Grazing Alternative:

Generally land acquisition would provide beneficial effects for recreation. Exchanges, however, may result in loss of public lands with ongoing recreational activities or loss of public access to other public lands not involved in the exchange as well as access into Steens Mountain Wilderness. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

2. Visual Resources

Affected Environment:

All trailing routes fall within a Visual Resource Management Class I category. Class I management objectives provide for preservation of the existing character of the landscape. This class provides for natural ecological changes but does not preclude very limited management activity.

Environmental Consequences:

No Action and Preclude Grazing Alternatives:

No effects.

Common to Route 1 and Route 2 Alternatives:

No changes to the appearance of the land/water component of the landscape character are expected as a result of the trailing activities. Disturbance to the vegetation feature of the landscape would be expected to be very low given livestock would be present along the route for a very short period (days) of time while trailing to the inholdings. No structures would be added to the landscape. Overall, the landscape character would be preserved.

3. Soils, Biological Soil Crusts and Upland Vegetation

Affected Environment:

Current discussion and analysis of potential effects on soils and Biological Soil Crusts (BSCs) are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.4 and 4.4.

BSCs generally play a minor role in soil surface stability on soils where vascular plant density is relatively high, especially in mountain big sagebrush communities, which is the case for most of the proposed routes. Most BSCs present are represented by short mosses under shrub cover. Soil surfaces throughout the CMPA and likely trailing routes are protected from raindrop impact primarily by vascular plant cover, and from development of extended flow paths (that can become rills and gullies) by cover of plant litter and rocks.

The most extensive vegetative community represented along trailing routes is composed of the mountain big sagebrush/perennial bunchgrass community. Other communities include low sagebrush/bunchgrass and quaking aspen/bunchgrass. Some common plant species in those communities include Idaho fescue, Thurber's needlegrass, basin wildrye, mountain brome, Sandberg's bluegrass, squirreltail, tailcup lupine, Hood's phlox, hairy paintbrush, Nelson's needlegrass, green rabbitbrush, and snowberry.

Environmental Consequences:

No Action Alternative:

Soil surface stability, BSCs, and upland vegetation would not be affected by trailing as authorized trailing would not occur. Recreational saddle and pack stock have temporary effects to vegetation during trailing, resting, foraging, and camping activities. The Steens Mountain Wilderness and WSRs Plan allows for grazing of native vegetation incidental to recreational uses.

Common to Route 1 and Route 2 Alternatives:

Passage of livestock away from roads would result in trampling of vascular plants, including limb breakage on shrubs, and slight compaction of soil surfaces. However, passage would be brief, and decompaction would occur through the remainder of the year, especially during freeze-thaw cycles in cold seasons. Hoof impact and shrub breakage would open more soil surface to sunlight for herbaceous plants and incorporate litter and seeds. Manure and urine from passing livestock would incorporate organic material to soil profiles, increasing soil fertility slightly along trails and offsetting effects to compaction. If affected, short moss clumps may be broken-up and scattered, but would likely recover during wet periods or even expand slightly as a result of this kind of disturbance.

In general, short-term disturbance to soil surfaces and vegetative communities from livestock passage in the affected plant communities are likely to have effects that balance one another: A temporary decrease in soil surface stability would be balanced by a temporary increase in soil fertility; damage to shrubs increases vascular plant litter creating opportunities for herbaceous plants; BSCs (particularly mosses) may be detached or scattered, but may actually increase in cover during recovery periods.

Measures to control livestock while trailing, and while on private inholdings would serve to limit effects of livestock on vegetation. Monitoring of livestock in the area by BLM would enable prompt resolution of any issues of straying livestock.

Effects of incidental and temporary livestock grazing on trail routes along with effects of recreational stock travel and grazing in much of the rest of the No Livestock Grazing Area are not major. Recreational saddle and pack stock grazing and trampling effects would continue, and are measured by wilderness staff on an annual basis.

Route 2, Trailing Alternative:

Passage of livestock over a short segment of the Cold Springs Road would likely increase detachment of soil particles, which would result in increased transport of sediment on road surfaces. However, vigorous vegetative cover, vascular plant litter and presence of rocks adjacent to roads would cause any increased sediment moving off roads to settle before reaching zero-order stream channels and passing into perennial streams. Any elevated sediment production would likely diminish after the first precipitation event.

Preclude Livestock Grazing Alternative:

Measures that preclude use of inholdings for grazing and make trailing unnecessary would also preclude even temporary effects to vegetation from livestock grazing. Recreational saddle and pack stock grazing and trampling effects would continue, and are measured by wilderness staff on an annual basis.

In the case of exchanges, manipulation of vegetation, improper grazing practices and other surface-disturbing activities may occur on public land once it leaves public ownership resulting in effects to soils vegetation and biological crusts, in a worst case scenario. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

4. Wildlife

Affected Environment:

Wildlife common to the area include mule deer, bighorn sheep, elk, pronghorn antelope, badger, coyote, mountain lion, jackrabbit, cottontail rabbit, pocket gopher, vole, other small mammals, golden eagle, red-tailed hawk, kestrel, turkey vulture, Cooper's hawk, mourning dove, many other migratory birds, amphibians, and reptiles. The area serves as summer habitat for deer and elk with some elk wintering in the vicinity of Donner und Blitzen River during mild winters. Mule deer also winter on the lower slopes of the east face of Steens Mountain.

Bighorn sheep are a species of special interest, particularly on the cliffs and canyons of Steens Mountain. Bighorn sheep inhabit the east rim of the Steens. Bighorns occupy the highest parts of the rim during summer and fall months with use shifting lower on the east face of the Steens as snow increases. They are present in Wildhorse Canyon, and along the east face of Steens Mountain.

Much of the area along the east rim of the Steens north and south of Berrington Trail and in Wildhorse Canyon is used for lambing in late spring. Approximately 450 bighorn sheep currently occupy the east rim of Steens Mountain down through Pueblo Mountains. The Fish Creek inholding parcel is remote from the Steens Mountain herd, although a newly established bighorn sheep herd resides to the west of the Fish Creek parcel along Pickett Rim west of Frenchglen.

The BLM considers permit actions under the Revised Guidelines for Management of Domestic Sheep and Goats in Native Wild Sheep Habitats, July 10, 1998. The revised guidelines, which reflect a balanced approach for management of domestic sheep and free-ranging goats in native wild sheep habitats, should be followed whenever ...proposed changes in a livestock grazing permit on BLM-administered lands are being considered. While a livestock grazing permit is not a part of the proposed action or alternatives, the guidelines are considered when mitigating measures may be applied (Design Features).

Guideline 2: Domestic sheep or goat grazing and trailing should be discouraged in the vicinity of native wild sheep ranges.

Guideline 3: Native wild sheep and domestic sheep or goats should be spatially separated to reduce the potential of interspecies contact.

Guideline 4: In reviewing new domestic sheep or goat grazing permit applications....in areas with established native wild sheep populations, buffer strips surrounding native wild sheep habitat should be developed,.... Buffer strips could range up to 13.5 kilometers (9 miles) or as developed through a cooperative agreement to minimize contact between native wild sheep and domestic sheep or goats, depending on local conditions and management options.

Guideline 5: Domestic sheep and goats should be closely managed and carefully herded where necessary to prevent them from straying into native wild sheep areas.

Guideline 6: Trailing of domestic sheep or goats near or through occupied native wild sheep ranges may be permitted when safeguards can be implemented to adequately prevent physical contact between native wild sheep and domestic sheep or goats. BLM must conduct onsite use compliance during trailing to ensure safeguards are observed.

Guideline 7: Cooperative efforts should be undertaken to quickly notify the permittee and appropriate agency to remove any stray domestic sheep or goats or wild sheep in areas that would allow contact between domestic sheep or goats and native wild sheep.

Guideline 9: Extraordinary precautions will be followed to protect Special Status subspecies, e.g., Federally listed threatened, endangered, proposed and candidate species, State listed subspecies and BLM sensitive subspecies.

Historically, and many decades ago, tens or even hundreds of thousands of domestic sheep occupied and used Steens Mountain and were part of the reason for the disappearance of native wild sheep. Since most domestic sheep herds were either restricted from Steens Mountain, or allotments changed to cattle use, activities to reintroduce and manage healthy bighorn sheep populations have been very successful. Currently, only one domestic sheep herd occupies Steens Mountain in the consolidated private lands in the Fish Creek Area and an enclosed smattering of public lands in a Fenced Federal Range (Scharff FFR) allotment. The risk of disease transmission is considered by the ODFW in their determinations for where additional bighorn sheep may be relocated. Because of the domestic herd in the Fish Creek Area, ODFW is not reintroducing bighorn sheep onto adjacent wilderness lands. A risk of disease spread still exists, due to occasional travel of bighorn sheep to visit domestic herds, and the rare occasion when domestic sheep leave their herds to visit bighorn populations. A buffer zone of 9 miles is recognized as effective by the Western Association of Fish and Wildlife Agencies, between domestic herds and bighorn populations (WAFWA Subcommittee Recommendations, June 21, 2007).

Environmental Consequences:

No Action Alternative:

Domestic sheep use in and near Fish Creek would not be expanded onto adjacent areas of public land. Risk of disease transmission from domestic to bighorn sheep would remain limited to chance exposure from traveling wild sheep which may wander over to visit the Fish Creek Area, or from lost domestic sheep which may wander onto the east rim of Steens Mountain and interact with wild sheep.

Wildlife in the immediate area of recreating hikers and equestrians would continue to be temporarily displaced by these activities.

### Common to Route 1 and Route 2 Alternatives:

Wildlife in the immediate trailing area of the trailing would be temporarily displaced by trailing and overnight bedding of livestock. Predator control on public wilderness lands is governed through an EA which allows for USDA-APHIS Wildlife Services (WS) to conduct predator control activities after documentation and confirmation of predator damage to livestock and contact of the public land administering agency. Coordination with and approval from the Burns District Manager is necessary for WS personnel to conduct predator control damage in wilderness areas. These activities could occur on private land at the request of the private landowner.

Bighorn Sheep – While cattle and horses do not pose a risk, domestic sheep create a risk of disease transmission (pneumonia) to bighorn sheep if they come into contact with each other. This risk is very great, and has resulted in a collaborative effort by fish and wildlife agencies to inform public agencies and private livestock operators about the risks. Adding domestic sheep grazing to private land inholdings not currently grazed by domestic sheep could increase the risk of disease transmission to the resident wild bighorn sheep herd on Steens Mountain, especially if the private inholdings are close to the occupied bighorn sheep habitat (Map 3). Sheep are curious and social, and wild sheep may visit domestic herds, especially during the fall breeding season. Trailing to and use of the Fish Creek private parcel (Route 1/Proposed Action) is more remote from the wild bighorn sheep population than the existing domestic sheep use area, and promotes only a slight additional risk of disease transmission when compared with the No Action Alternative.

Herding or fencing measures to control sheep could work to separate domestic sheep from wild sheep, and dogs can be particularly effective in preventing wild sheep from approaching domestic sheep. All contact cannot be prevented if trailing is used, or if herding is the control measure. Monitoring of trailing activities or grazing controls to assure herds are kept on private inholdings, and monitoring of bighorn sheep presence would serve to assist in recognition or minimization of domestic sheep to bighorn sheep contact. Double fencing is the only known method for complete separation of domestic and wild sheep, but would not be considered required for the Fish Creek parcel.

### Preclude Grazing Alternative:

Acquisition of private inholdings would be a permanent measure to prevent reintroduction of domestic sheep into the No Livestock Grazing Area of Steens Mountain Wilderness, and would be the best alternative to minimize disease transmission. Incentive payments to preclude use by livestock on an annual basis would prevent potential disease transmission in the short term while longer term solutions are negotiated.

Land exchanges may result in loss of wildlife resources, including sensitive species habitat, from public ownership, management, access/use and enjoyment. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

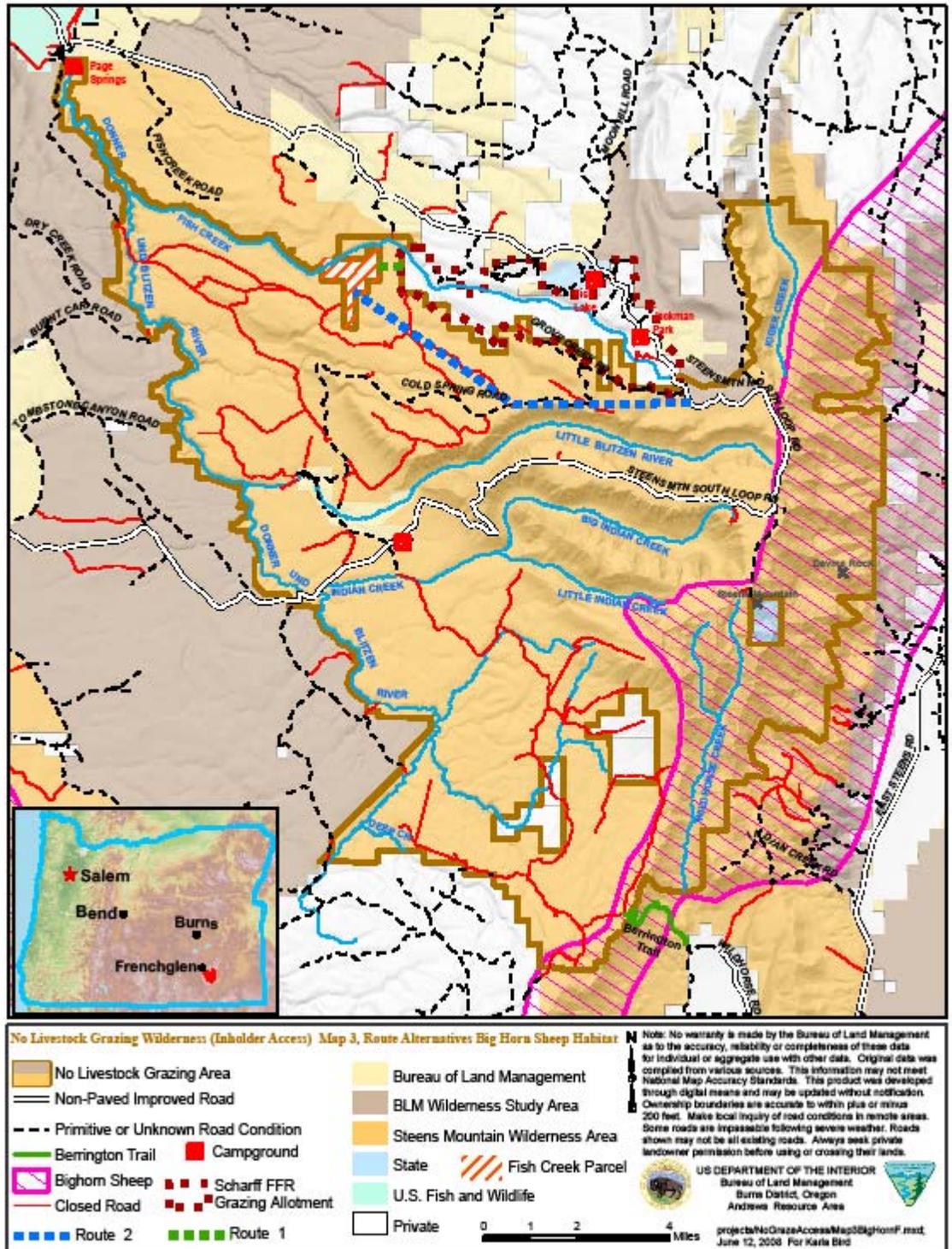
5. Wild Horses

Affected Environment:

Current discussion and analysis of potential effects on wild horses are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.14 and 4.14.

Most of South Steens HMA wild horses occupy an area outside of and west of the No Livestock Grazing Area. The HMA contains 126,732 acres within AMU and the CMPA. The appropriate management level is 159 to 304 animals allocated 3,648 AUMs.

Map 3. Bighorn Sheep Range



### Environmental Consequences:

#### Affects Common to All Alternatives:

While not observed directly in this HMA or in adjacent HMAs, strangles is a disease documented as having been transferred from domestic horses to wild horse herds. Because wild horses are not provided routine veterinary care, they are more susceptible to injury or death due to this disease.

#### No Action Alternative:

Even without livestock trailing and associated horse presence (cowboys or shepherds), recreation saddle and pack stock pose a limited risk to transmitting strangles to wild horse herds. Recreational saddle and pack stock use most frequently occurs in the gorges, where wild horses do not normally range. Saddle and pack stock, when congregated, are in the immediate presence of human riders, which generally would limit approach by wild horses.

#### Common to Route 1 and Route 2 Alternatives:

If the selected livestock to use the private inholdings included untethered horses or mules, opportunity for visitation by wild horses or other intermixing could increase the chances for spread of this disease. Intermixing is less likely during trailing, when in the immediate vicinity of humans. However, the disease has been documented as occurring in waterholes, even when domestic horses have left the area.

Measures to assure control of livestock would reduce possibility of intermixing domestic and wild horses. Monitoring of livestock activities would reduce incidence of inadvertent or accidental intermixing.

#### Preclude Grazing Alternative:

Exchanges may result in loss of wild horse habitat, key water sources or have other effects if public lands containing wild horses are selected for exchange. In any administrative land exchange, site-specific environmental affects of a land exchange would be analyzed in a separate NEPA document.

6. Social and Economic Values

Affected Environment:

Current discussion and analysis of potential effects to Social and Economic Values are tiered to the AMU/CMPA PRMP/FEIS (August 2004), and relevant information contained in the following sections is incorporated into this EA by reference: Sections 3.12 and 4.12.

Access to one's private property is important to landowners. Equally important is one's concept of wilderness and the opportunity to experience nature in a natural setting.

The designation of the No Livestock Grazing Area and the mandate to provide reasonable access to private inholdings used for livestock grazing may appear to be in conflict in this case. Reasonable access seeks to accommodate private landowner needs while minimizing impacts to wilderness and other natural values. The current landowner pursued ownership of the subject property following designation of Steens Mountain Wilderness.

The private land inholdings are available for agricultural purposes under the Harney County land use planning ordinances. To be able to graze private property is an implied right of private landowners, even those with inholdings inside a designated wilderness area.

One attribute of determining property value is degree of access. In some situations as access becomes restrictive, property values decrease. In other situations, private inholdings within wilderness actually increase in value. In general, access to private land within wilderness is more restrictive than access to private land in nondesignated areas. Prior to Steens Wilderness designation, access to these inholdings was managed under casual use which essentially allowed unrestricted access to the properties by the landowners during the season when routes were open and as long as damage to public land did not result. Grazing use was the primary use of the inholdings.

Harney County is made up of a large proportion of government owned lands on which taxes are not paid. Only annual Payments in Lieu of Taxes (PILT) make up for some loss of tax revenue, as provided by Congress to Counties as a lump sum (and not by tax parcel). Harney County relies on property tax revenue more and more, especially as receipts from public land resources (timber and grazing) have been reduced in recent decades, and PILT have never equaled the loss in potential tax revenue.

In 2007, the Harney County Assessor requested the landowner of the affected inholding provide the Assessor’s Office with information on the agricultural uses of the lands for evaluation of appropriate tax rates (personal communication, Ted Tiller, 2008). The Assessor eliminated the special assessment on the affected tax lots. The difference in tax rates is shown below.

The 2008 tax estimates for the property in question are as follows:

**Table 1: Tax Rate Differences, Fish Creek Parcel**

<b>Number</b>	<b>Landowner</b>	<b>Acres</b>	<b>Taxes without Special Assessment/Year</b>	<b>Taxes with Special Assessment/Year</b>
15043	Natures’ Advocate, LLC	635.51	\$3,590.00	\$150.00

(Source, Harney County Tax Assessor)

Wilderness advocates value wilderness lands for nonmonetary, social purposes. Although some parties believe economic development is enhanced by designation of wilderness areas around small communities, no data are available to support that allegation in the area surrounding Steens Mountain. Visitation to the CMPA appears to be very near the same levels as occurred prior to the Steens Act

Agricultural production, including livestock production, remains the highest economic activity in Harney County.

Currently there are seven bighorn sheep tags issued for the two main populations on the east face of Steens Mountain. A hunter survey conducted in 1991 and adjusted for inflation for 2002 showed on average bighorn sheep hunters spent about \$1,500 per hunter for scouting and hunting trips excluding purchases of equipment, license fee, tag fee and guide services. Of this amount, about 70 percent was spent in eastern Oregon. Many bighorn sheep hunters may bring several other family/friends with them to help in the hunt. Although the amount spent per extra person is not known, this could add \$100 to \$200 per person per hunt.

Environmental Consequences:

No Action Alternative:

Social values would not be affected by trailing activities as authorized trailing would not occur.

Tax rates would increase by approximately 20 times for affected landowners (see Table 1 above) as their special tax assessment would be eliminated. The tax base for Harney County would increase by \$3,440/year.

Common to Route 1 and Route 2 Alternatives:

If the slight risk for disease transmission from domestic sheep to wild sheep is realized, there would be a loss of income to communities around Steens Mountain as bighorn sheep hunting permits would be reduced due to a decrease in bighorn sheep populations. If disease spreads further to bighorn herds on Pueblo Mountains and possibly Sheephead Mountain, then tags would be reduced even further than the seven tags from the Steens area meaning a larger economic loss.

The slight risk of a loss of bighorn sheep would also have an effect on social values as bighorn sheep viewing is an amenity of Steens Mountain and considered a wilderness supplemental value.

Livestock use of all or a part of a total of the affected 635 acres is so small as to be an unmeasurable contributor to the Harney County economy. Use of this property is unlikely to contribute a large portion of the annual income to the subject landowners. However, use options of these lands, when in conformance with County land use plans, are at the discretion of the landowner, and held as a basic right which is extremely important to the landowners.

Enjoyment of Steens Mountain Wilderness by the public would continue to occur in most areas of the wilderness and the No Livestock Grazing Area either temporally or spatially separate from livestock trailing activities. Most visitors to the wilderness area would not notice or know about livestock trailing. Some visitors, especially those who travel to Steens Mountain Wilderness to enjoy a livestock-free landscape would be disappointed if they happened upon trailing livestock or evidence of their passage.

Preclude Livestock Grazing Alternative:

In the event landowners are willing to consider the measures provided in this alternative (including temporary, annual incentive payments that equal or exceed the difference in tax rates; conservation easements; cooperative management agreements; land exchanges or land purchases), undesirable social effects to wilderness users would not occur, and those who value Steens Mountain Wilderness and its “No Livestock Grazing Area” would continue to benefit from the lack of conflict and potential effects from domestic livestock.

Lands acquired into Federal ownership become exempt from property taxation.

As a result, a purchase or donation of a property to BLM or other exempt entity would result in a loss of revenue to Harney County. This loss of revenue is mitigated by a net increase of over 100,000 acres of private land in the County due to BLM land exchange and sale activity in the last 30 years.

Generally little effect to tax revenues would be expected by an individual exchange transaction, as an equal value of private and public lands change hands, depending on the gaining and losing County. If an exchange for lands in another County were achieved, Harney County would be adversely affected by loss of tax revenue within Harney County. The loss of grazed property would equal \$150/year. The loss of ungrazed property would equal \$3,590/year. There would likely be increased revenue under a conservation easement or incentive payment scenario as taxation on the land would continue, but at the higher special assessment rate since agricultural use would be eliminated.

### Cumulative Effects Analysis

As the Council on Environmental Quality (CEQ), in guidance issued on June 24, 2005, points out, the “environmental analysis required under NEPA is forward-looking,” and review of past actions is required only “to the extent that this review informs agency decision-making regarding the proposed action.” Use of information on the effects on past action may be useful in two ways according to the CEQ guidance. One is for consideration of the proposed action’s cumulative effects, and secondly as a basis for identifying the proposed action’s direct and indirect effects.

The CEQ stated in this guidance that “[g]enerally, agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions.” This is because a description of the current state of the environment inherently includes the effects of past actions. The CEQ guidance specifies that the “CEQ regulations do not require the consideration of the individual effects of all past actions to determine the present effects of past actions.” Our information on the current environmental condition is more comprehensive and more accurate for establishing a useful starting point for a cumulative effects analysis, than attempting to establish such a starting point by adding up the described effects of individual past actions to some environmental baseline condition in the past that, unlike current conditions, can no longer be verified by direct examination.

The second area in which the CEQ guidance states that information on past actions may be useful is in “illuminating or predicting the direct and indirect effects of a proposed action.” The usefulness of such information is limited by the fact that it is anecdotal only, and extrapolation of data from such singular experiences is not generally accepted as a reliable predictor of effects.

## CHAPTER IV. CONSULTATION AND COORDINATION

### A. Participating Staff

Laura Dowlan, Outdoor Recreation Planner, Wilderness  
Steve Dowlan, Natural Resource Specialist  
Kelly Hazen, Geographic Information Systems  
Rhonda Karges, District Planning and Environmental Coordinator  
Fred McDonald, Supervisory Natural Resource Specialist  
Matt Obradovich, Wildlife Biologist  
Bill Pieratt, Wild Horse Specialist  
Lesley Richman, District Weed Specialist  
Scott Thomas, Archaeologist

### B. Persons, Groups, and Agencies Consulted

George Houston, Oregon Chapter Foundation for North American Wild Sheep  
Oregon Department of Fish and Wildlife, Hines, OR  
Scott Campbell, Silvies Valley Ranch  
Steens Mountain Advisory Council  
George Stroemple  
John Witzel, Wildhorse Ranch

In April 2008, a scoping document was mailed to several dozen individuals, landowners, groups and agency representatives and made available for review on the BLM website. The BLM received several comment letters, or e-mails. Individual meetings were held with private landowners. (See Attachment 1 for a summary of scoping comments.)