

Minutes

Crook County Natural Resource Committee

June 12, 2019

Committee Members Present: Steve McGuire, Frank Porfily, Lynne Breese, Teresa Rodriguez, John Dehler, Mike Lunn, Andy Gallagher, Ston McDaniel

Member absent: Trent Smith

Public Present: Ty Sumner, Peg Fisher, Kevin Keown, Bob Bicknell, Trysten Lay, Sheena York, Mike Bauer, Jim and Cassandra Dutchak, David Dutchak, Dave Bauer, Darcy Lay, Beth Peer, Cliff Kiser, Gayle Hunt, Melinda Kestler, Ruby Bauer, Anna Bauer, Barband Dennis Lay, Lois Hoffman, John Breese

Jeff Kitchens, Shane Jeffries, Bart Wills, Lynette Ripley, Greg Garnett

Meeting was called to order at 1:00 p.m. by Chair Andy Gallagher @ Crook County 4H Building, Prineville

Pledge of Allegiance

Review of Minutes: Teresa moved to approve minutes as corrected. Lynne seconded. Motion passed.

PUBLIC COMMENT: removed to the end of the meeting

Old Business:

Travel Management Subcommittee: Subcommittee met on June 11 with BLM and FS. Tim summarized the meeting, indicating that the group felt the long term approach would be to focus on awareness of existing plans and education about what is in them. Ston reminded the group about the history of the issue (permittee concern about OHV use in an allotment north of Prineville Reservoir) and the resource impact. As a neighbor in that area, Ston shared about his lack of knowledge until seeing the maps provided by BLM as to what was and what was not allowed. Jeff Kitchens (BLM) will work with permittee to help address problems presented. Mike Lunn reviewed Trent's language conflict within the County's policy and stated that the subcommittee will work on language to eliminate the conflict and bring that work to the total committee for its review and recommendation to the County Court. Jeff indicated that the BLM is committed to continue working with the subcommittee on this issue. Jeff also indicated he will work with his agency's GIS folks to create more user friendly maps for OHV use on public lands within the County.

Agency Update: Shane Jeffries introduced FS personnel in the audience, Peg Fisher, Bart Wills, Kevin Keown and Beth Peer. County and FS received a federal grant to do some paving on Hwy 26 towards Ochoco Ranger Station, and in 2 years, pave up to Walton Lake. Shane announced that the Rainbow Coalition will be in the Ochoco's holding a regional meeting. FS has met with their representatives and Johanna will provide leadership for the FS during this event. Judge, Sheriff and police chief are involved in all discussions. Shane provided an update on the Blue Mtn Resiliency Project. This effort is closing

down its regional activity and all information will be given to each participating forest for their use in modifying existing Forest Plans and activities.

Bart Wills was introduced as the FS minerals/mining lead on the Ochoco. Bart provided the group with a background introduction to the 1872 mining law and that it really hasn't changed much in 150 years. Mining law allows citizen's rights to minerals on public lands, outlines the process for establishing a mining claim and the role the FS has in managing the above ground resources associated with the claim. Claims are filed with the BLM and the County. FS assures that land is not being harmed with mitigation activity required as needed. Mine operator files plan of operation and updates plan when significant changes happen to the mining operation.

Teresa asked Bart about occupancy on the mining claim. Bart responded that all structures, equipment, etc on the claim must show reasonable incident to the mining activity itself (show you need it in order to mine). Questions about abandoned mines and structures were talked about. Old structures do exist on the Forest, abandoned structures become property of the federal government. Today's mining permits include a posted bond to help pay for reclamation of the site. Not all abandoned mines have a bond associated with them. In many cases, the FS does not have the dollars to reclaim these sites.

Ston asked if the committee would allow the mine owner of the Diligence Mine to speak to issues he is having with his current permit and order to vacate the cabin that is located on the mine site. The group agreed to put him on the agenda.

City of Prineville/OID Hydro Project:

Steve Forrester, City of Prineville manager asked if his group could come back in July and give their presentation on the proposed hydro project for Bowman Dam. The group agreed given the full agenda of today's meeting and the need to address the mining concerns on the Ochoco Forest.

Jeff Kitchens provided an update of BLM activities. Chimney Rock campground upgrades are moving forward. District is working on a fiber optic cable installation that is coming from Umatilla County to Prineville and then going from Prineville to Reno. Jeff indicated that the public input requirement for this project is still uncertain. 98% of this project is using existing right-of-way through public lands and for the most part, is being laid under existing road beds. The County's rock pit application is moving forward in the review process and for the first time, Rangeland Fire Protection Associations were invited to a wildland fire administrators meeting. Jeff thought this was a very good thing and will be continued in the future.

Bureau of Reclamation/Prineville Reservoir Resort: Lynnette Ripley (recreation manager) and Greg Garnett (BOR Bend) provided an update to the closing of the Prineville Reservoir Resort. Lynnette shared that the current concessionaire informed the Bureau this past winter that they no longer wanted to run the resort and were seeking to be released from their contract. Lynnette shared that the campground is now closed indefinitely and that the Bureau is having conversations with Oregon State Parks, a coordinating agency to reopen and operate the facilities sometime in the future. Lynnette shared that over the years, BOR has stopped managing private concessionaires. They use approved coordinating agencies to either operate or subcontract with private businesses to run camp facilities on

BOR properties. The Bureau manages 9 reservoirs in the northwest with recreation facilities on them. Contracts when they expire require the concessionaire to return the site to its natural state. This requirement for the Prineville resort operators is on hold for the time being, with BOR hoping to work out a deal with State Parks. State Parks has a current 25 year management agreement with BOR for Prineville Reservoir (exp. 2036). Teresa asked about the ability to transfer the existing contract to another private business; response that is not possible. If State Parks says no, what then? Response is BOR would be open to other coordinating agencies, ex., County, County Parks, etc.

Diligence Mine: Ston introduced Dave Bauer, current owner of the Diligence Mine. Dave addressed the group, sharing the history of the mine.

1934 – Joe Dehler filed 5 mining claims on the Ochoco National Forest

1937 – Cabin built

1938 – Processing mill built

1985 – Joe gifted the 5 claims to Dave Bauer

Included in the deed, a transfer of the cabin and processing mill

1993 – Congress passes hard rock mining legislation that changes some of the rules and deadlines for mine operations. Up until 1993, miners had always had Dec 30th as the deadline for filing paperwork. This bill changed the date to August 31 and provided provisions for filing small mining waivers. Federal government provided no notice of date change. This mine missed the new filing deadline and 5 claims were now considered “abandoned”.

1994 – New filings combined 4 of the 5 claims into a single claim.

2019 – FS sends letter to Dave indicating that the cabin had been determined to not meet the requirement for being Incident to the operation of the claim, that the break in claim in 1993/94 had transferred ownership of the cabin to the federal government and required him to vacate cabin within 30 days and that the cabin’s fate will be decided by the FS.

Since receiving the letter, Dave has sought both County, general public and NRAC support in keeping the cabin and hoping to reverse the FS decision. Prior to the NRAC meeting, Judge Crawford met with Shane Jeffries to discuss the issue and the Judge said the FS had decided to extend the 30 day requirement by another 60 days in order to give the Mr. Bauer’s time to appeal the notice. Dave mentioned that he is now retired and intends to more actively work the mine.

Dave indicated that he is not disputing the FS claim of title to the building. Dave says the cabin is incident to the working of the mine and intends to fight the decision. FS letter indicates they will be posting no trespassing signs on the property.

Committee questions:

Why did the FS wait 25 years to send letter on building ownership?

Is the Savings Clause found in mining law pertinent to this activity by the FS?

Has a determination of validity been done on the mine itself?

Bart Wills, FS Geologist provided some additional information to the discussion. As for the Incident of use determination, pick and shovel activity have been determined to not require a cabin. Paved roads and closeness to town plus the ability to use RV, tents, etc. for camping aid in ease of access to the mine. There are no records at the FS verifying that this is a valid claim (proven discovery of minerals).

Ston moved to have a subcommittee discuss this topic within the 60 day extension time period and to become more familiar with all the actions, further investigate the validity of the claim and how it relates to the NR Policy. Lynne seconded. Motion passed. Committee members are Ston, Mike and Teresa.

Committee member sharing

Steve, had questions regarding the proposed changes in Policy language

Lynne, announced it was now fire season and to be safe

Teresa, City Council and Steve Forrester met with BPA about power and that from that discussion, there will be an effort to identify local opportunities for power generation.

Frank reported that FaceBook had made a presentation to Rotary and that they have 7 new buildings in the works.

Public Comment Period:

Barbara Lay: She supports Dave Bauer and his continued use of the mine and all associated buildings

Jessica Lay: Cabin is in good repair and been in use for 82 years. Why is the FS picking on this one when so many others in disrepair are allowed to be vandalized on the forest?

Katherine Harder: How can the government change a long standing filing deadline without notification?

Bob Bicknell: What appeal rights does Dave have? No one at the Forest Service has been able to or willing to answer that question.

Deanna Johnson: If building is sound, the FS has many other things they should be focused on. If the government took ownership in 1994, what has the government done to maintain this building? I am the owner of the Lucky Strick Mine, does the County tax the improvements on the mine?

Kevin Keown: The Forest acknowledges the concerns raised. The FS is committed to work with Dave about the issue. Asked that the process be allowed to work prior to intervening with other measures.

Jessica Lay: Asked about the appeal process again. Again stated that the FS had been no help in sharing what that process was or who to talk to. Mike shared that there is a process and asked Beth Peer to meet after the meeting with Jessica to go over who to talk to.

Frank reminded the group that the NRAC is a committee which advises the County Court.

Steve moved to adjourn. John seconded. Motion passed.

Meeting adjourned at 3:45 p.m.

Next meeting is July 10th @ 1:00 p.m.

