

January 26, 2023

VIA ELECTRONIC SUBMISSION & USPS

Superintendent
Theodore Roosevelt National Park
PO Box 7
Medora, ND 58645

Re: Theodore Roosevelt National Park Livestock Plan

Dear Ms. Richman:

Friends of Animals¹ submits these comments in response to the Scoping Notice for the Theodore Roosevelt National Park's (TRNP) Livestock Management Plan (LMP) for its wild horses and longhorn cattle. This comment focuses on wild horses.

Wild horses are part of the wildlife and landscape that TRNP was established to protect. However, the alternatives proposed in the scoping notice range from limiting the herd to unsustainable population of 35-60 wild horses to completely eliminating the herd. The alternatives are not acceptable. These wild horses have intrinsic value and are part of the landscape that inspired Roosevelt and continues to inspire visitors today.

We urge the National Park Service ("Park Service") to take a hard look at its management of wild horses and consider an alternative that protects a viable, breeding population of wild horses as native wildlife, not livestock. The Park Service should also consider expanding the area available for wild horses to allow for a healthy population and environment. Finally, the Park Service should not remove any wild horses during this planning process to protect individual horses from being sent to the slaughter pipeline and to protect the viability and genetic health of the population.

¹ Friends of Animals is a non-profit international advocacy organization incorporated in the state of New York since 1957. Friends of Animals has nearly 200,000 members worldwide. Friends of Animals and its members seek to free animals from cruelty and exploitation around the world, and to promote a respectful view of non-human, free-living, and domestic animals. Friends of Animals regularly advocates for the right of wild horses to live freely on public lands, and for more transparency and accountability in the management of wild horses and burros.

A. Wild horses should be protected as native wildlife and not considered livestock.

It is unclear why the Park Service proposes to continually manage wild horses as “livestock” rather than wildlife. The Park Service does not provide any care for wild horses in TRNP and wild horses have lived in the area since long before TRNP was even established. Although the Park Service’s regulations no longer include a definition of the term “livestock,” the plain meaning of the term and history of the regulations indicate that that it would only apply to domestic animals kept for commercial purposes and not wild horses. The horses in TRNP are not domesticated or kept for commercial purposes and there is no justification for treating them as livestock.

To the contrary, wild horses are native wildlife that are part of the landscape. According to research based on fossil records, mitochondrial-DNA, and microsatellite data, the modern horse species, *E. caballus*, originated in North America approximately one to two million years ago.² While there is some debate about whether horses went extinct in the Pleistocene Age in North America,³ “neither paleontological opinion nor modern molecular genetics support the contention that the modern horse in North America is non-native.”⁴

Even assuming there was a local extinction, “[r]eintroducing species of plants and animals back into areas where they have disappeared has been a regularly used technique in wildlife conservation for decades, and federal agencies were authorized by Congress to create experimental populations to aid in that effort in 1982.”⁵ Notably, the federal government regularly reintroduces species to their historical range, and in some cases, outside of its historical range.⁶

The argument against the native status of wild horses is largely political. In a legal forum assessing the WHBA hosted by New York University, Dr. Ross MacPhee, the Curator of Mammalogy/Vertebrate Zoology at the American Museum of Natural History, responded to

² Kirkpatrick, J. F., & Fazio, P. M. (2010). Wild horses as native North American wildlife. *Animal Welfare Center*.

³ See e.g., Collin, Y. R. H. (2017). The relationship between the indigenous peoples of the Americas and the horse: deconstructing a Eurocentric myth. University of Alaska Fairbanks; Downer, C. C. (2014). The horse and burro as positively contributing returned natives in North America. *American Journal of Life Sciences*, 2(1), 5-23; Kirkpatrick, J. F., & Fazio, P. M. (2010). Wild horses as native North American wildlife. *Animal Welfare Center*.

⁴ Kirkpatrick, J. F., & Fazio, P. M. (2010). Wild horses as native North American wildlife. *Animal Welfare Center*.

⁵ U.S. Fish and Wildlife Service, *Department of the Interior Proposes Expanding Conservation Technique as Climate Change Threatens Greater Species Extinction* (June 6, 2022), <https://www.fws.gov/press-release/2022-06/department-interior-proposes-expanding-conservation-technique-climate-change>.

⁶ See e.g., Establishment of a Nonessential Experimental Population of the Guam Kingfisher, or Sihek, on Palmyra Atoll, USA, 87 Fed. Reg. 53429 (Aug. 31, 2022).

a “myth” posted on the website of Bureau of Land Management (BLM) that horses are native species. Dr. MacPhee stated:

[E]very clause, every sentence about the foreignness of horses in the passages I just read is palpably wrong, demonstrably wrong, not only according to people like me but also to anybody who has any intimate understanding of the history of horses on this continent.

Now let me just put this in a nutshell. The family Equidae evolved on this continent; it is as American as anything you could possibly imagine. That was 55 million years ago. Progressive evolution occurred thereafter, eventually culminating 1.8 million years ago when a horse very like modern horses evolved. With a very high statistical probability, domestic horses, The Horse, evolved from that precursor and spread throughout North America and then across land bridges to Eurasia and South America.

Scientifically, the BLM’s comment that The Horse did not biologically evolve on the North American continent is wrong, and therefore the additional comments about The Horse being foreign to the Western ecosystem is completely irrelevant.

It is additionally irrelevant to say that today’s ecosystem in which today’s mustangs and feral horses survive is somehow completely different from what was here 10,000 years ago. That is simply not true.⁷

MacPhee concluded that, “if nothing else happens out of this discussion, what I want you to take home is the idea that scientifically, the idea that horses are an invasive species is utterly wrong.”⁸ Indeed, scientists have found that, “[t]he non-native, feral, and exotic designations given by agencies are not merely reflections of their failure to understand modern science but also a reflection of their desire to preserve old ways of thinking to keep alive the conflict between a species (wild horses) . . . and the economic value of commercial livestock.”⁹ “[F]rom a genetic, evolutionary, and ecological perspective, horses are native to North America.”¹⁰

Notably, the U.S. Ninth Circuit Court of Appeals also recognized wild horses as native species, explaining that BLM “establishes Appropriate Management Levels (“AMLs”) for

⁷ MacPhee, R.D. (2011). Transcript. Managed to Extinction? A 40th Anniversary Legal Forum Assessing the 1971 Wild Free-Roaming Horses and Burros Act.

⁸ *Id.* at 3.

⁹ Kirkpatrick, J. F., & Fazio, P. M. (2010). Wild horses as native North American wildlife. *Animal Welfare Center*.

¹⁰ Donlan, C. J., & Martin, P. S. (2004). Role of ecological history in invasive species management and conservation. *Conservation Biology*, 18(1) 267-269, 268.

populations of native species - including wild horses, burros, and other wildlife - and introduced animals, such as livestock.”¹¹

Eliminating the wild horse from TRNP would be contrary to the Park Service’s regulations and the purpose of TRNP. Similarly, managing for a nonreproductive herd, limiting the herd to an unsustainable populations and apply fertility control also contravenes the Park’s purpose and violates its regulations. Among other things, possessing, destroying, injuring, removing, or disturbing wildlife in the national park is generally prohibited. 36 C.F.R. §2.1(a)(1)(i), 2.2.(a).

B. The National Park Service should consider an alternative that preserves and protects wild horses as native wildlife.

The Park Service should consider an alternative that conserves wild horses as native wildlife and allows wild horses to roam freely in TRNP without removals or harmful fertility controls.

Wild horses are amazing and complex animals that inspired Roosevelt and still inspire visitors today. In addition, protecting wild horses in TRNP could provide resiliency for native ecosystems and species in the face of a changing climate.¹² Wild horses and other equids can use their hooves to dig more than six feet deep to reach groundwater for themselves.¹³ This activity creates oases that serve as a boon to wildlife.¹⁴ Equid wells can also function as germination nurseries for riparian pioneer trees.¹⁵ Wild horses, whether native or introduced, have the potential to reduce the impacts of climate change and rising temperature on biodiversity and ecosystem function.¹⁶

In addition, wild horses select preferred grasses, sedges and herbs, including coarse, highly abrasive grasses, creating a mosaic of high and low vegetation that creates a more diverse habitat for invertebrates, small vertebrates and herbaceous plants.¹⁷ Unlike cattle, wild

¹¹ *In Def. of Animals v. United States Dep’t Interior*, 751 F.3d 1054, 1059 (9th Cir. 2014) (emphasis added).

¹² See Lundgren, E. J., et al. (2021). Equids engineer desert water availability. *Science*, 372 (6541), 491-495; Downer, C. C. (2014). The horse and burro as positively contributing returned natives in North America. *American Journal of Life Sciences*, 2(1), 5-23.

¹³ Lundgren, E. J., et al. (2021). Equids engineer desert water availability. *Science*, 372 (6541), 491-495

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Naundrup, P. J., & Svenning, J. C. (2015). A geographic assessment of the global scope for rewilding with wild-living horses (*Equus ferus*). *PloS one*, 10(7), e0132359.

horses do not stay at water sources, but rather move after drinking and will travel long distances from water.¹⁸

Wild horses also help spread plant seeds over large areas where they roam and they do not decompose the vegetation they ingest as thoroughly as ruminant grazers, such as cattle or sheep, which allows the seeds of many plant species to pass through their digestive tract intact into the soil that the wild horses fertilize by their droppings.¹⁹ Wild horses help to prevent catastrophic fires and help to build more moisture-retaining soils. Soil moisture dampens out incipient fires and makes the air coating the earth moister.²⁰ Wild horses refill a significant empty niche within the North American ecosystem."²¹

Wild horses are self-regulated and the population would likely come into balance with the ecosystem if left alone. In contrast, removing wild horses to artificially low numbers not only negatively impacts the individual horses and the genetic viability of the herd, but it is also short-sighted and ineffective because it prompts short-term population growth.

C. Conclusion.

Thank you for the opportunity to comment. Friends of Animals requests that the Park Service consider the true impact of its proposed actions and consider additional alternatives that protect wild horses. The Park Service should not eliminate wild horses or manipulate their natural behaviors. Nor should the Park Service auction off wild horses as livestock. Instead, the Park Service should protect wild horses as native wildlife and provide adequate space for viable population in TRNP.

Thank you for the opportunity to comment, and please contact me if you have any questions or concerns. Enclosed with this letter is a thumb drive that includes an copy of this letter along with the sources cited herein.

Sincerely,

Jennifer Best
Legal Director, Wildlife Law Program

¹⁸ Ganskopp, D., & Vavra, M. (1986). Habitat use by feral horses in the northern sagebrush steppe. *Journal of Range Management*, 207-212.

¹⁹ Downer, C. C. (2014). The horse and burro as positively contributing returned natives in North America. *American Journal of Life Sciences*, 2(1), 5-23.

²⁰ *Id.*; see also Ripple, W. J., et al. (2015). Collapse of the world's largest herbivores. *Science advances*, 1(4), e1400103; Wild Horse Fire Brigade - Rebalancing North American Ecosystems: <https://grazelife.com/blog/wild-horse-fire-brigade-lessons-in-rebalancing-north-american-ecosystems-by-rewilding-equids/>.

²¹ Downer, C. C. (2014). The horse and burro as positively contributing returned natives in North America. *American Journal of Life Sciences*, 2(1), 5-23.

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Enclosure