

January 29, 2023

Dear Superintendent Richman:

I am writing today to comment on Theodore Roosevelt National Park's (TRNP) proposed management plan for the wild/feral horses. These horses are of lineage that have called the park home long before the park was fenced in. **Records from TRNP, itself, claim that the horses lived in the area of the park before it was created in 1947** (1)

Including the wild/feral horses in a management plan for livestock is a huge mistake. After reviewing the Theodore Roosevelt National Park 1984 General Management Plan, which was referenced throughout the virtual public scoping meeting on January 12, 2023, it is clear this document makes no reference to the wild/feral horses as livestock. It also speaks of the need for a **WILD HORSE MANAGEMENT PLAN**. (2)

To elaborate further on the wild/feral verses livestock, research is showing that the horses now on this continent have the same DNA as those who originally lived in North America.

From the research article, [Genetic diversity and origin of the feral horses in Theodore Roosevelt National Park](#), (3) "The phylogenetic test placed this sequence in a group consisting of two horses from China, one from Yakutia, and one from Italy raising a possibility of historical transportation of horses from Siberia and East Asia to North America."

This research article also states "the TRNP horses were distinctly different from 48 major horse breeds." This in of itself should be a valid reason to preserve the TRNP wild/feral horses.

TRNP's Foundation Document dated 2014 (4) makes no reference to the wild/ feral horses as "livestock" but instead speaks of the need for a *Feral Horse Management Plan*.

Dr. Castle McLaughlin's 300+ page report entitled ***The History and Status of the Wild Horses of Theodore Roosevelt National Park*** (5) disproves the narrative claiming the horses of Theodore Roosevelt National Park are nothing more than local, unclaimed ranch horses when the park was fenced. The original copy of this report is in Theodore Roosevelt National Park's possession, therefore, you already have the case for the historical and cultural significance of the wild/ feral TRNP horses within that document.

We also know by Theodore Roosevelt's own writings that he experienced wild/ feral horses running free through the Badlands of North Dakota. This includes references that go beyond his ranching experiences. As quoted on your website (6): "In a great many--indeed, in most--localities there are wild horses to be found, which, although invariably of domestic descent, being either themselves runaways from some ranch or Indian outfit, or else claiming such for their sires and dams, yet are quite as wild as the antelope on whose domain they have intruded."

Theodore Roosevelt National Park needs an alternative that takes into consideration the genetic viability of this herd. Dr. Gus Cothran has stated repeatedly that 150-200 adult horses are needed for a genetically viable herd. On January 5, 2023, Dr. Cothran spoke to North Dakota's KX News (7) and reiterated this statement, speaking **SPECIFICALLY** with regards to the wild/ feral horses of Theodore Roosevelt National Park.

The Bureau of Land Management's ***Wild Horse and Burro handbook*** (8) also supports the need to maintain 150-200 horses for genetic viability.

Consider developing and analyzing an alternative in which ONLY reversible birth control is administered to the herd with the following conditions:

- older mares given birth control where they have a proven genetic representation in the herd.
- any birth control program rotated to reduce the chance of permanent sterilization.
- treated mares monitored for any health or behavior changes.

Another consideration for the Management Plan is adding similarly genetic mares into the herd. Specifically, those of the Nokota Horse, as their foundation horses came from Theodore Roosevelt National Park.

In 1993, the Nokota was declared the Honorary State Equine of the state of North Dakota. (9) On numerous occasions, Mr. Frank Kuntz has offered to collaborate with TRNP in this process.

Assateague Island is successfully implementing its birth control program with PZP (10), with marked reductions in population growth and better body condition scores within their herd. As a result, that park has added two new age groups to the herd dynamics because they now have horses living beyond the age of 25.

A similar birth control program could be implemented in this wild/feral horse management plan. To the extent that a successful birth control program is implemented, TRNP would be able to stop managing the herd by numbers and ease of access only. TRNP could, also, make sure that science and genetics are guiding the use of birth control on **ANY** horse in this herd.

To the extent that culling the herd is required, there is a need for TRNP to develop and analyze an alternative that makes any wild/feral horse removals contingent on rigorous genetic monitoring; that is, an alternative whereby horses are removed only if their removal would not negatively impact the genetic health of the entire herd.

TRNP prior gathers have largely prioritized removing foals from the park due to their desirability in subsequent adoptions/sales. However, the ***National Academy of Sciences Report: BLM Wild Horse and Burro Program: A Way Forward*** (11) concluded “the absence of young would alter the age structure of the population and could thereby affect harem dynamics.”

Similarly, citing a study of the Pryor Mountain Wild Horses which looked at the impacts of birth control and removals on the herd, the ***NAS Report*** (11) found that “management strategies based on removal and fertility control were most effective in achieving management goals” but should focus on “strategies that rely less on removal and more on fertility control.” That Report also “highlighted the importance of management actions to delay age at first reproduction and increase generation length to reduce population growth.”

Throughout the January 12, 2023, meeting, you and your staff cited ***36 CFR § 2.60*** will not allow horses to stay on NPS property. The Chief Resource Manager at Assateague Island National Seashore states their horses are allowed to stay on NPS lands because they are classified as “wildlife” (10) instead of “livestock”. Since there is no clarity on how/when TRNP determined this “livestock” classification for the horses, if TRNP went back to their prior classifications of wild/feral, this issue would be resolved.

Additionally, you and your staff cited the ***NPS’s Organic Act*** (12) and your own Management Policies for reasons to support your

“proposed action” that would allow for no horses in Theodore Roosevelt National Park. Those same policies also state “ *The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. (U.S.C., title 16, sec. 1.)*.”

NPS, Management Policies also discusses management of wildlife. (13) Again, within your possession is Dr. Castle McLaughlin’s report that speaks to the historical and cultural significance of these horses.

To elaborate further on the cultural element, there are multiple social media groups who follow and report on these horses. They have followers in all 50 states, along with other countries. To list a few, on Facebook, alone:

- North Dakota Badlands Horse (104 K followers);
- Full Moon Rising Wild Horses (6.9 K followers);
- Chasing Horses (83,865 followers);
- Wild Lands Wild Horses Series and Fund (3.2 K followers);
- Dakota Grown Photos (108K followers);
- Chasing Horses Wild Horse Advocates (2.5 K followers);

- Memories Captured in Time Photography (4.1 K followers);
- Ode to the Wilds (1.8 K followers);
- Deb Lee Carson Photography (18K followers);
- This Mustang Life (11K followers);
- Wild Horse Journey (3.9 K followers);
- Lynn Walleen Photography (5.4 K followers)

This is not an all-inclusive list, nor does it include the multiple other social media platforms.

The National Park system was established by Congress in 1916 through the **Organic Act**. (12)(See 54 U.S.C. § 100101 et seq.) Unlike other federal land management statutes (e.g., the Federal Land Policy and Management Act, 43 U.S.C §§ 1701(a), 1702(c)) that require a balance between conservation and extractive uses, the **Organic Act** (12) focuses exclusively on the preservation of the nation's park lands and the specific resources found therein. In relevant part, the **Organic Act** (12) provides that NPS:

“Shall promote and regulate the use of the National Park System by means and measures that conform to the fundamental purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

(See 54 U.S.C. § 100101(a).)

Given the **Organic Act's** strict preservation mandate, NPS's regulations implementing the Act broadly prohibit the removal of any wildlife, dead or alive, from the boundaries of a National Park. (See 36 C.F.R. § 2.1; see also id. § 2.2) (NPS regulations concerning wildlife, which include a prohibition against "taking" and/or intentionally "disturbing" wildlife found within a park unit).

According to NPS, "wildlife means any member of the animal kingdom and includes a part, product, egg or offspring thereof, or the dead body or part thereof, except fish." (See 36 C.F.R. § 1.4.) Notably, NPS's regulations pertaining to wildlife take do not draw any distinction between native and non-native (i.e., invasive) species, although the latter may be removed from a park unit under specified conditions (13)

NPS's regulations, however, contain an exception for "livestock" animals. The "pasturing or grazing of livestock of any kind in a park area" is generally prohibited but may be permitted "as a necessary and integral part of a recreational activity or required in order to maintain a historic scene"—so long those animals have been "designated" as such by the responsible park official. (See 36 C.F.R. § 2.60(a)(3).)

According to the Agricultural Holdings Act of 1986 the definition of livestock (per the Free Dictionary by Farlex (14) is:

1 any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land or the carrying on of any agricultural activity: Agricultural Holdings Act 1986.
2 cattle, horses, asses, mules, hinnies, sheep, pigs, goats and poultry and deer not in the wild state for the purpose of the legislation relating to liability for animals. Scots law has similar statutory provisions.
Collins Dictionary of Law © W.J. Stewart, 2006

As such, the wild/ feral horses of Theodore Roosevelt National Park are not kept for the production of any of the above; they are not used for farming of land, nor to carry on with any agricultural activity.

Instead, they fit into the definition of wild (per the Free Dictionary by Farlex (15)

1. Occurring, growing, or living in a natural state; not domesticated, cultivated, or tamed: *wild geese; edible wild plants.* (adj.).

1. A natural or undomesticated state: *returned the zoo animals to the wild; plants that grow abundantly in the wild.* (n)

The horses of Theodore Roosevelt National Park do not receive any form of human assistance from the park staff. They do not receive food, shelter, veterinary care, nor intervention. For example, in 2018 when Mare "Chubby" (CSU/ TRNP number 200122) died during foaling (a filly followed named Miracle), multiple requests were made, along with offers of assistance to gather the filly so she would live. The park would not intervene, nor interfere with the "natural consequences", and the filly perished. There are other documented events of the wild/ feral horses having serious/ life threatening injuries the park, also, would not intervene/ interfere with.

It stands to reason, by practice/ policy alone, Theodore Roosevelt National Park deems the horses as wildlife (wild/ feral).

The late historian, Robert Utley, spent part of his life trying to help right the apparent wrongs done to the wild/ feral horses of TRNP. His position is significant because he penned many of the policies that shaped the National Park Service. Robert Utley's position is that Section 106 of the National Historic Preservation Act of 1966 applies: Section 106 of NHPA granted legal status to historic preservation in federal planning, decision-making, and project execution. Section 106 requires all federal agencies to consider the effects of their actions on historic properties and provide a reasonable opportunity to comment on those actions and the manner in which federal agencies are taking historic properties into account in their decisions. (16 Summarized)

Finally, there can be no question that an EA is insufficient to analyze the full extent of the impacts of and alternatives to TRNP's formation of the wild/ feral horse management plan. TRNP

essentially needs to prepare an EIS to evaluate this plan. As TRNP is aware, the 1969 [National Environmental Policy Act](#) (NEPA) (17) for certain actions "significantly affecting the quality of the human environment"

The wild/ feral horses of TRNP affect "the human environment" in multiple ways, including, but not limited to, emotional, psychosocial, physical (many followers are active in the park due to the horses), and monetarily (many businesses would be affected by the removal of the horses). For monetary information please reference: [economics of loss of horses to park.docx.pdf \(ndbh.org\)](#) (18)

For the reasons clearly stated above, I am asking as you and your staff begin the Environmental Impact Statement aspect of this management planning process, you consider the above valid scientific points, as well as your own NPS policies, while you formulate new alternatives to consider.

While considering, please keep in mind this quote from Theodore Roosevelt, himself, listed on your park website (6): "I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us."

I, genuinely, hope the wild/ feral horses of Theodore Roosevelt National Park will remain in OUR National Park for my kids, grandchildren, great grandchildren and great- great grandchildren to enjoy, as I have. I, also, hope the herd is maintained at a genetically viable herd size, as suggested by Dr. Cothran, of 150 to 200 horses. (7)

Sincerely,

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