

Dear Superintendent Richman:

I am writing today to comment on Theodore Roosevelt National Park's proposed management plan that includes the wild horses that have called the park home long before the park was fenced in.

The first point I would like to make is that including the wild horses in a management plan for livestock is a huge mistake. After reviewing the Theodore Roosevelt National Park 1984 General Management Plan that you and your staff referenced throughout the virtual public scoping meeting on January 12, 2023, it is clear that this document not only makes no reference to the wild horses as livestock, but also speaks of the need for a **WILD HORSE MANAGEMENT PLAN**. Further, the park's own Foundation Document dated 2014 makes no reference to the wild horses as "livestock" but instead speaks of the need for a *Feral Horse Management Plan*.

Second, the degrading narrative about the horses of Theodore Roosevelt National Park being nothing more than local ranch horses that went unclaimed when the park was fenced has been disproved throughout Dr. Castle McLaughlin's 300+ page report entitled ***The History and Status of the Wild Horses of Theodore Roosevelt National Park***. Since the original copy of this report is in Theodore Roosevelt National Park's possession, you already have the case for the historical and cultural significance of the wild horses that call the park home within that 300-page document. We also know by Theodore Roosevelt's own writings that there was no question that he experienced wild horses running free through the Badlands of North Dakota. This includes references that go beyond his ranching experiences.

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 and reiterated this statement, this time speaking **SPECIFICALLY** with regards to the wild horses of Theodore Roosevelt National Park. The Bureau of Land Management's ***Wild Horse and Burro handbook*** also supports the need to maintain 150-200 horses for genetic viability.

Theodore Roosevelt National Park should develop and analyze an alternative in which ONLY reversible birth control is administered to the herd with the following conditions: (1) older mares should only be given birth control where they have a proven genetic representation in the herd; (2) any birth control program should be rotated to reduce the chance of permanent sterilization; and (3) treated mares should be monitored for any health or behavior changes.

Assateague Island is successfully implementing its birth control program with PZP, 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 should be implemented in this wild horse management plan. To the extent that a successful birth control program is implemented, TRNP should stop managing the herd by numbers only and 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, TRNP should develop and analyze an alternative that makes any wild 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.

As TRNP is well aware, 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, concluded that “the absence of young would alter the age structure of the population and could thereby affect harem dynamics.” NAS Report at 134. Similarly, citing a study of the Pryor Mountain Wild Horses which looked at the impacts of birth control and removals on the herd, 21 the NAS Report 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.” NAS Report at 177. 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 that 36 CFR § 2.60 will not allow horses to stay on NPS property. Communication with the Chief Resource Manager at Assateague Island National Seashore states that their horses are allowed to stay on NPS lands because they classified them as “wildlife” instead of “livestock”. Since there is no clarity on how/when TRNP determined this “livestock” classification for the horses in the park, if TRNP went back to prior classifications they used on these horses, that would resolve this issue.

Additionally, you and your staff were quick to cite the NPS’s Organic Act 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 that where certain species like wild horses are “maintained to meet specific, identified management needs,” like cultivating a historic setting, the nonnative “species used must be known to be historically significant, to have existed in the park during the park’s period of historical significance, to be a contributing element to a cultural landscape, or to have been commonly used in the local area at that time.” NPS, Management Policies at 47 (2006), <https://bit.ly/3tvupvi>. Again, within your possession is Dr. Castle McLaughlin’s report that speaks to the historical and cultural significance of these horses.

Furthermore, NPS, and the National Park system as a whole, were established by Congress in 1916 through the Organic Act. 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 focuses exclusively on the preservation of the nation’s park lands and the specific resources found therein. In relevant part, the Organic Act 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.”

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.” 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. See NPS, Management Policies at 48 (2006), <https://bit.ly/3tvupvi>.

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. 36 C.F.R. § 2.60(a)(3).

The late historian, Robert Utley, spent part of his life trying to help right the apparent wrongs done to the wild horses of TRNP. His position is significant because he actually penned many of the policies that have shaped the National Park Service. Robert Utley’s position has always been 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 take into account 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. (Summarized at <https://ncshpo.org/resources/section-106/>)

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 horse management plan. TRNP must prepare an EIS to evaluate this plan. As TRNP is aware, NEPA obliges agencies to prepare an EIS for any major federal action significantly affecting the environment.

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

Sincerely,