

18 October, 2024

Ian Reid
Acting Forest Supervisor
Modoc National Forest
225 W. 8th Street
Alturas, CA 96101

RE: Devil's Garden Plateau Wild Horse Territory Management Plan, Final Environmental Assessment Objection

Dear Acting Supervisor Reid:

Modoc County (County) submits the following objections to the Modoc National Forest's (Forest) Devil's Garden Plateau Wild Horse Territory Management Plan and Final Environmental Assessment (EA) and the related Draft Decision Notice available for objection beginning 5 September, 2024.

The County meets the requirement for objection status having submitted project specific comments on the Draft EA on 10 May, 2024, as well as scoping comments. They are both incorporated by reference.

Objection 1

Inclusion of the Middle Section as part of the Wild Horse Territory

The County believes that the Forest misinterpreted the Court's decision in regards to the case of American Wild Horse Preservation Campaign v. Perdue, 873 F.3d 914, 932 (D.C. Cir. 2017) and that led to a failure to present a reasonable alternative that did not include the Middle Section, but did include a detailed explanation of the 2013 boundary decision. In response to a County Comment that directly asked whether the Court had specifically directed the Forest to include the Middle Section, the Forest answered yes. We believe that is incorrect. It seems clear that the Court did not direct a specific result, only that the Forest failed to adequately describe why the boundary decision in the 2013 plan was made. It appears clear to the County that if the Forest had accurately understood the Court's direction, there would reasonably be an alternative that is consistent with the 2013 plan boundaries with a robust explanation of why the reasonable changes were arrived at in the 2013 plan to return to the 1975 map. Those reasons include, but are not limited to, much of the ground was private at the time, fence lines were established and endangered species habitat was an issue. There is no reasonable rationale for the inclusion of the Middle Section if the mistaken interpretation of Court direction by the Forest is not a factor.

Suggested Remedy

The Forest needs to display an alternative that contains a full explanation of the changes made to the boundaries in the 2013 plan and maintains the original boundaries (1975). This could be

Alternative 2 (with adequate descriptions of the changes made) or an alternative that maintains the disputed boundaries, but allows the Forest to update the 2013 management strategies based on improved information and landscape changes.

Objection 2

Management of Appropriate Management Level (AML) by Pasture

The proposed decision to manage wild horses to AML by pasture or allotment has little basis in the reality of wild horse movement across the landscape of the Devil's Garden. That is shown in one way by the spread of wild horses outside the territory to include all of the Devil's Garden, across Highway 139 and onto the lake bed of Goose Lake. Fences do not contain them. It is further demonstrated by the historic concentration of horses in the southern portion of the territory in the winter.

The Bureau of Land Management learned this years ago. In fact, they even manage their Herd Management Areas in tandem with each other because of the movement of horses. That is part of the "wild and free roaming" that is their nature. In addition, the EA calls for gates to be left open once the livestock grazing season is over.

It is evident in the language of the EA that the primary purpose of the allotment level AML is to facilitate an early date that triggers fertility control in a particular allotment. This is not a rational reason for this proposed practice. Horses move freely across all of the Plateau and considerable non-federal land, particularly during events such as hard winters, drought, open gates and even helicopter gathers.

Suggested Remedy

Manage toward AML at the territory level as stated in the 2013 plan. Fertility control should remain to be triggered by AML at the territory level as currently directed in the 2013 plan. The 2013 plan requirement that fertility control not begin until AML has been reached at the Territory level was primarily based on removal (helicopter or trapping) as the management tool of choice to move more quickly to AML, to prevent the turnout of treated animals that then increase the difficulty of gathering/trapping and to prevent the diversion of limited resources away from gathering/trapping.

As always, the County appreciates all efforts toward achieving AML as quickly as possible for the benefit of the wild horses, the ecological health of the Forest and our local communities.

Sincerely,

Sean Curtis

Modoc County Director of Natural Resources