



United States
Department of
Agriculture

Forest
Service

Pacific
Southwest
Region

Regional Office, R5
1323 Club Drive
Vallejo, CA 94592
(707) 562-8737 Voice
(707) 562-9240 Text (TDD)

File Code: 1570
Appeal No.: 14-05-00-0001-A215
Date: January 2, 2014

Ms. Janet Lynch
655 Elmwood Road
Pownal, ME 04069

CERTIFIED – RETURN
RECEIPT REQUESTED

Dear Ms. Lynch:

The Forest Supervisor for the Modoc National Forest, Kimberly Anderson, signed the Decision Notice (DN) approving Alternative 2 of the Devil's Garden Wild Horse Territory Management Plan Environmental Assessment (EA) on August 27, 2013. The notice of the decision was published on August 29, 2013. On October 11, 2013, you filed a Notice of Appeal (NOA) pursuant to 36 CFR 215.

I have reviewed the entire appeal record, including your written Notice of Appeal (NOA), the DN, EA, and the supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

Implementation of a Territory Management Plan (TMP) whereby wild horses in the Devil's Garden Plateau Wild Horse Territory (WHT) are managed for the next 15-20 years as a self-sustaining population of healthy animals in a thriving natural ecological balance with other uses and within the productive capacity of their habitat as required by Public Law 92-195, the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA), as amended.

Designation of the Forest Service as the lead agency for all wild horse management actions within the WHT, consistent with the authority provided in Forest Service Manual 2261.1, 36 CFR 222 Subpart B, and the 1971 WFRHBA (as amended). The proposed action would identify management and monitoring objectives and actions for future management of the herd and their habitat.

Removal of excess wild horses (both within and outside the WHT), when necessary, to prevent further deterioration of the range. Disposition of older animals that are gathered will be consistent with law, regulations and policy.



This change is made to insure compliance with the 1971 WFRHBA, as amended.

Baseline genetic diversity would be established and monitored, and management actions would be taken as needed to ensure a healthy, diverse and self-sustaining wild horse population is maintained over the long-term.

Population suppression methods such as application of PZP or sex ratio adjustments would be implemented to slow the average annual growth rate.

Habitat improvement projects would be undertaken to enhance the habitat available for wild horses within the WHT over the short and long-term.

The decision also includes the following modifications to the Proposed Action (Alternative 2): Sex ratio adjustment to favor males beyond a 50:50 ratio will not be considered at this time. This change is made to address public concern regarding this practice and because it is thought possible to lower the herd growth rate to an acceptable level (< 20%) through sex ratio adjustment to 50:50 males/females and implementation of fertility control.

If necessary to maintain genetic diversity (based on monitoring), animals will only be introduced from the alternate home range in the Devil's Garden WHT.

APPEAL REVIEWING OFFICER'S FINDINGS and RECOMMENDATION

The ARO, Laurence Crabtree, found that the project is an appropriate and reasonable response to direction in the Modoc National Forest Land and Resource Management Plan and is in compliance with the plan.

The purpose and need for the project were clear. The Modoc Forest Supervisor's decision logic and rationale were clear and well documented in the Record of Decision. The Forest Supervisor was responsive to public participation, and thoroughly responded to concerns that were identified during the scoping and comment periods.

The ARO recommended affirming the Forest Supervisor's decision on all issues, including issues pertaining to the proposed amendments, except issues 2Ciii and 13 regarding the lack of analysis and disclosure of the costs associated with the proposed gathers of wild horses. In turn, the ARO recommended denying the Appellant's requested relief, except the relief in that related to the aforementioned issue.

DECISION

I agree with the ARO's analysis as presented in his recommendation letter. Some of the issues raised in your appeal letter are similar to comments made during the comment period. All appeal issues you raised in your appeal letter have been considered. I affirm the Forest's proposed amendments to their Forest Plan. I also affirm the Forest Supervisor's decision to implement Modified Alternative 2, with the exception of gathers of wild horses and associated activities. Those activities may only commence once the deficiency regarding the lack of analysis and disclosure of costs associated with gathers of wild horses has been sufficiently corrected. I deny

all requested relief, except that related to the lack of analysis and disclosure of the costs of the gathers.

The project may be implemented on, but not before, the 15th business day following the date of this letter in accordance with 36 CFR 215.9(b). My decision constitutes the final administrative determination of the Department of Agriculture as per 36 CFR 215.18(c).

Sincerely,

/s/ Barnie T. Gyant
BARNIE T. GYANT
Deputy Regional Forester
Appeal Deciding Officer

Enclosure