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Service

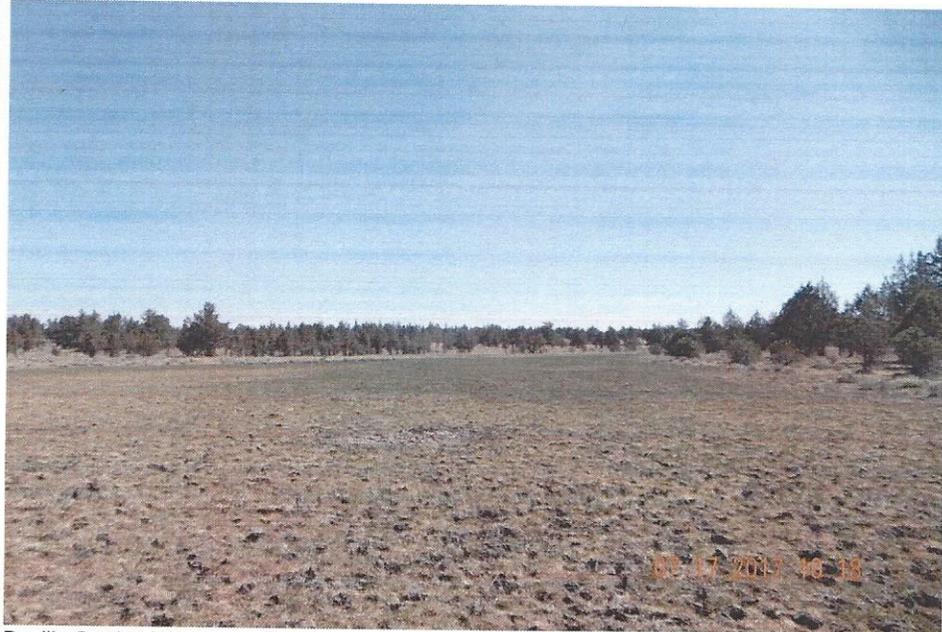
July 2018



Supplemental Information Report

for the

Devil's Garden Plateau Wild Horse Territory Environmental Assessment, Decision Notice, and Management Plan September 2013



Devil's Garden Wild Horse Territory wet meadow, severely trampled and grazed by wild horses
(Timbered Mountain allotment, Black Rock subunit)

**Supplemental Information Report
for the
Devil's Garden Plateau Wild Horse Territory
Environmental Assessment, Decision Notice, and Management Plan**

September 2013

BACKGROUND

Devil's Garden Management Area (MA) is the largest management area on the District. It extends from Goose Lake on the northeast to the pine timber belt on the west, and from Fletcher Creek on the north to the Forest boundary above Canby. The primary vegetation of this flat, rocky terrain is juniper woodlands interspersed with sagebrush and grass flats. Because it produces large amounts of forage, the area is used heavily for grazing cattle. The area also contains fall and winter range important for the Interstate deer herd. Pronghorn use the range in summer and fall. Half the Forest's wild horse herd roams the MA. Waterfowl nest on the reservoirs and wetlands, Triangle Ranch being the focal development (per Land and Resource Management Plan (LRMP), Modoc National Forest, 1991).

In August 2013, a decision notice was issued for the *Devil's Garden Wild Horse Territory Management Plan and Forest Plan Amendments* to implement a Territory Management Plan (TMP). The TMP directs management of wild horses in the Devil's Garden Plateau Wild Horse Territory 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, as amended. The proposed activities in the Project were analyzed in an Environmental Assessment and DN/FONSI signed August 27, 2013 by Kimberly H. Anderson, Forest Supervisor.

Beginning in FY 2014 (October 1, 2013) the Forest Service and BLM mutually agreed to discontinue delivery of additional Forest Service horses or burros into BLM's off-range long-term holding facilities to curtail program costs for both agencies. The BLM has also taken other actions to control rising costs associated with increased WH&B numbers in off-range facilities. Since passage of the Wild Horse Act in 1971, the Forest Service has focused its personnel and resources primarily on inventories, surveys and environmental analyses, forest planning, and territory management plan development. The Forest Service has generally relied on the BLM expertise or private contracted services for operational management of individual WH&B herds, including: gathers, removals, transport, holding facilities, animal care, adoption and sale events. Excess horse removals on Devil's Garden WHT have been delayed due in large part to the changes to the Forest Service/BLM national agreement. It has prompted the need for Forest Service to develop a more operational wild horse program.

In March 24, 2014 American Wild Horse Preservation Campaign, Carla Bowers, and Return to Freedom (Plaintiffs) brought legal action against the Secretary of the United States Department of Agriculture concerning the borders of the TMP in the 2013 EA. On September 30, 2015 the D.C. District Court found that the EA was not arbitrary and capricious or in violation of the law

for the Forest Service to act to correct the boundary in the 2013 EA and 2013 Management Plan. This decision was appealed in the D.C. Circuit Court on November 25, 2015.

On September 29, 2017, the Court of Appeals ordered that the judgment of the District Court be reversed in part, the Forest Service's exclusion of the Middle Section territory be vacated, and the case be remanded to the District Court with directions to remand to the Forest Service for further consideration.

On November 7, 2017 Modoc National Forest received a letter from Plaintiffs' attorney, requesting that the Modoc National Forest require full access to the "Middle Section" by wild horses "residing in this Territory". Modoc National Forest responded (letter dated November 29, 2017) that we would be in compliance with the Court order to manage the Devil's Garden Wild Horse Territory to include the "Middle Section" and that certain components of the Devil's Garden Plateau Wild Horse TMP and Forest Plan Amendments Decision Notice and FONSI (August 27, 2013) now apply to the "Middle Section."

In October 2017, a complaint for declaratory and injunction relief was filed by the Devils' Garden Preservation Group, Wilson Ranches, and Green Valley Corporation, stating that the Modoc National Forest has failed to remove excess wild horses.

INTRODUCTION

A gather is being planned for the horses outside the territory and inside the Emigrant Springs and Pine Springs units, where overpopulation of horses are of greatest concern (Attachment #1 map). The territory area referred to here as the "Middle Section" was not analyzed in the 2013 EA and would not be part of this next gather. The Pacific Southwest R5 Regional Office (RO) has submitted to the Washington Office (WO) a request for supplemental funding of one or more gathers in fall of 2018 and/or in 2019 to remove a portion of excess horses on DGWHT. The Forest has initiated planning and preparation for the gather(s) .

This Supplemental Information Report (SIR) gives updated and current information on the territory and provides a review of 2013 Environmental Assessment to determine whether it needs to be supplemented prior to on-the-ground gather activities. This next specified gather area would take into account the 2017 Circuit Court order regarding the designated territory boundary. It will also give the Responsible Deciding Officer (Forest Supervisor Amanda McAdams) needed information to make specific adjustments or clarifications to the 2013 excess wild horse determination (previous Forest Supervisor Kimberly Anderson), as needed for management of individual animals and bands within the overall wild horse population.

Forest Service planning directives state that a project-level NEPA-based decision remains valid as long as the authorized activity complies with laws, regulations, forest plan, and is within the scope of the project-level NEPA-based decision. Therefore, it is not necessary to initiate a new site-specific analysis in order to undertake a modification that has already been analyzed, decided upon, and documented. Management actions should be adjusted when monitoring indicates that those actions are not effective in reaching defined objectives. This is the basic

premise behind adaptive management (FSM 2209.13 sec. 92.23b). However, in accordance with FSH 1909.15, 18.1, this SIR for the DGWHTP and Forest Plan Amendments Decision Notice (DN) and Finding of No Significant Impacts (FONSI; 2013) has been prepared to examine changed circumstances as a result of the passage of time since the analysis in 2013.

DECISION NOTICE ACTIONS

The 2013 Decision Notice authorized the following management direction and actions:

1. Approval of the Devil's Garden Plateau Wild Horse Territory Management Plan (DGPWHTMP).
2. Designation of the Modoc National Forest as lead agency for management actions related to wild horses in the DGPWHT.
3. Adoption of the non-significant Forest Plan amendments as described below:
 - a. Delete Standard 5 (LRMP, 4-19) which states: "Manage the wild free-roaming horse herds to achieve a Forest population between 275 and 335 (on the average, 305) animals." Replace Standard 5 (LRMP, 4-19) as follows: "5. (S) Revise the herd management plan for the Devils Garden Plateau WHT approximately every ten to twenty years. Evaluate the appropriate management level (AML) for wild horses as part of the herd management plan analysis and decision process."
 - b. Delete Guideline 5A (LRMP, 4-19) which states: "Every ten years revise the herd management plan for each wild horse territory, including forage allocation for horses within the carrying capacity of the territory. Cooperate with the Bureau of Land Management in capture and placement of the animals. Replace Guideline 5A (LRMP, 4-19) as follows: "A. (G) When review of resource monitoring and population inventory data indicates the appropriate management level (AML) for wild horses may no longer be appropriate, complete an in-depth analysis of resource monitoring data. If indicated, adjust the AML either up or down in order to maintain a thriving natural ecological balance and multiple-use relationship within the WHT. Express the AML as a population range with a lower and upper limit within which wild horses can be managed for the long-term. Establish the AML upper limit as the maximum number which results in a thriving natural ecological balance and avoids a deterioration of the range and the AML lower limit at a number that allows the population to grow (at the annual population growth rate) to the upper limit over a 4-5 year period without any interim gathers to remove excess wild horses. The AML will specify the number of adult wild horses to be managed within the population (excludes current year's foals)."
 - c. Delete Guideline 5B (LRMP, 4-19) which states: "Monitor the impacts of wild horses on rangelands in allotments where horses are present. Determine if wild horse numbers should be adjusted on high impact areas." Replace Guideline 5B (LRMP, 4-19) with the following: "Monitor the

impacts of wild horses on range ecological condition. Monitoring data may include studies of grazing utilization, range ecological condition and trend, actual use, and climate (weather) data. Population inventory, use patterns, animal distribution, and progress toward attainment of other site-specific and landscape-level objectives may also be considered. Three to five years of data is preferred.”

- d. Add Guideline 5C (LRMP, 4-19) as follows: “Cooperate with the Bureau of Land Management to capture and remove excess wild horses when analysis of grazing utilization and distribution, trend in range ecological condition, actual use, climate (weather) data, current population inventory, wild horses located outside the WHT in areas not designated for their long-term maintenance and other factors such as the results of land health assessments demonstrate removal is needed to restore or maintain the range in a thriving natural ecological balance with other uses and the productive capacity of their habitat.

Establish a boundary for the WHT based on the long-term needs of the Devil's Garden wild horse herd and within the herd's known territorial limits (1971 WFRHBA) rather than for administrative convenience. This boundary will provide for future management of two distinct home ranges: “West and East” (as discussed above, this action was remanded and will be re-analyzed at a later date).

4. Establishment of an AML upper limit of 402 adult wild horses and a lower limit of 206 adult wild horses, based on the evaluation of monitoring data. The evaluation of monitoring data will determine if future changes in the AML are necessary, which would be implemented, pending additional site-specific environmental analysis.
5. Use of helicopters as the primary gathering method, supplemented by bait trapping where feasible. All gathering operations will be in accordance with the Standard Operating Procedures as specified in Appendix D of the EA, or as modified by most current gathering contract(s).
6. Gathers to achieve AML will commence as soon as practical, beginning in the fall/winter of 2013 or the summer of 2014.
7. Animals that have established home ranges outside the territory boundary would receive first priority for removal.
8. Implementation of fertility treatments using the 1 year and 22 month formulations of PZP to slow rate of herd growth. Fertility control will be administered to all mares of the age one and older that are turned back to the WHT. Fertility control will be administered in accordance with the Standard Operating Procedures described in Appendix E of the EA, or the latest revision.
9. Establishing a baseline for genetic diversity through sampling of the animals gathered. Genetic diversity would be re-assessed through further sampling

every 8-10 years. If genetic monitoring indicates that Observed Heterozygosity (Ho) falls below the mean for feral populations (0.66 for DNA based hair samples, 0.31 for blood samples) actions to improve diversity such as introducing young animals (mares) from the opposite home range or maximizing the number of breeding animals in the herd will be implemented.

10. Actions to adjust the sex ratio of the herd to a 50/50 males/female will be taken. This will be done by releasing additional males during AML maintenance gathers.
11. The feasibility of developing additional water sources in currently dry areas of the WHT will be examined. Construction of additional water sources will be completed pending site specific environmental analysis and available funding.
12. No new fencing would be constructed in the WHT, with the exception of small riparian pasture fences if found necessary to meet riparian objectives. Re-construction of existing allotment/pasture fencing would be completed pending the results of site-specific environmental analysis.
13. Gates on existing fences within the WHT will remain open during the period of each year when livestock are absent from the area to facilitate free-roaming behavior and seasonal migrations. Where monitoring indicates concentrations of animals along fence-lines, fences will be marked with materials such as snow fence, and gates will be widened to further facilitate free-roaming behavior.
14. Population and Habitat monitoring will occur as described in the EA, pp. 29-32, and attached DGPWHT Plan (pp. 13-17) to determine progress in meeting objectives. Adjustments to population or habitat management will be based on the results of monitoring data and implemented pending additional site-specific environmental analysis.

TERRITORY MANAGEMENT PLAN IMPLEMENTATION

The Territory Management Plan (TMP) has a monitoring plan described on pages 14 through 17. As shown in Table 1, those actions which were implemented or completed are described in the far right column.

Table 1. Monitoring Plan, Devil's Garden Wild Horse Territory Management Plan, 2013

| Monitoring Item | How | When | Actions to Take (Adaptive Management) | Implemented/ Completed |
|---|--|---|---|---|
| Population Management Monitoring | | | | |
| Manage wild horse populations within the established AML range (206-402 adults) to protect the range from deterioration associated with overpopulation. | Census populations through aerial flights following established protocols. Direct count method or other approved protocol pending census research results and recommendations. | Census Devil's Garden WHT a minimum of every three years i.e. 2013, 2016, 2019. | Schedule gathers to remove excess wild horses when the total population exceeds the AML, or when animals are found to be permanently residing outside the DGWHT core area (i.e. more than seasonal drift), or when animal health/condition is at risk. | <i>Aerial survey in 2013 using direct count, in 2016 using double count; in 2018 road survey count.</i> <i>Gather in 2016 from private and Tribal lands. Second gather to be scheduled in 2018/2019.</i> |
| Assure all age classes are represented post gather. | Record ages of animals released post-gather. | Every gather. | Adjust age class distribution during each gather to result in an even age distribution. | <i>All age classes were present in 2016 gather from private and Tribal lands. 68 studs and 52 mares turned back out.</i> |
| Maintain genetic diversity (avoid inbreeding depression). | Hair samples would be collected during at every other regularly scheduled gather, (8-10 years), to determine whether USFS's management is maintaining acceptable genetic diversity (avoiding inbreeding depression). | Every other regularly scheduled gather. | If genetic sampling indicates there is greater than 10% loss in genetic diversity, introduce two mares from opposite home range areas every other gather (about 10 years) Released animals will be phenotypically similar to those occurring in the home range. | <i>Samples gathered for future analysis.</i> |
| Manage wild horses to achieve an average Henneke body condition class score of 3+. | Visually observe wild horse body condition (Henneke condition class method). Record average body condition during periodic gather operations. | Annually, as part of regular field monitoring. Every gather. | If body condition falls below condition class 3 during extended periods (greater than 6 months) re-evaluate AML to determine if an adjustment is needed. | <i>Body conditions have remained at 3 or better. Most animals are condition class 4. Animals are travelling longer distances to forage in and beyond the territory.</i> |
| Apply fertility control to all mares (1 year and older) released back to the range following future gathers. | Conduct post-fertility control monitoring in accordance with established procedures. | Year 2-4 following each gather. | If population growth rate is not reduced by at least 5% through fertility control alone, consider other methods to reduce growth rate (i.e. sex ratio skewing to favor males), pending supplemental environmental analysis. | <i>In 2016, PZP was applied to 52 mares that were released back.</i> <i>Full PZP program to be implemented after population is reduced to AML.</i> |

| Monitoring Item | How | When | Actions to Take (Adaptive Management) | Implemented/ Completed |
|--|---|---|--|---|
| Population Management Monitoring | | | | |
| Assess rangeland conditions by 2016. Limit utilization by all herbivores to 50% of the current year's production for key grasses and 45% for key shrubs. | Locate key monitoring areas within the WHT. Range conditions on FS lands to be assessed according to FS protocols. | 2016 | Establish additional site-specific resource management objectives for key areas, as needed. | <i>Utilization monitoring indicates use levels are being exceeded by horses during winter and prior to spring plant growth.</i> |
| | For BLM lands, assess rangeland health using procedures outlined in Technical Reference 1734-6. Establish baseline trend studies using the frequency sampling procedures as outline in the Nevada Rangeland Monitoring Handbook. Measure utilization at key areas/use pattern mapping annually. | Based on the above, re-adjust AML or identify additional management actions to address/resolve identified rangeland health issues, as needed/appropriate. | | <i>No status to date.</i> |
| Improve riparian condition at of the various spring areas within the WHT that are being impacted by heavy to severe use. | Re-evaluate riparian functionality every five years using the Proper Functioning Condition (PFC) method on springs within the WHT. Assess stubble heights and bank alteration. | Every five years, starting the first year AML is achieved (est. 2016). Annually. | Consider adding additional water storage or riparian pastures to protect riparian habitat, if riparian habitats do not show significant improvement after achieving and maintaining AML for a two year period. | <p><i>Riparian conditions continue to decline. Utilization Monitoring in May and June 2018 indicated exceeded use standards across the entire allotment. See attached figure for Pine Springs Allotment.</i></p> <p><i>2015-2018 Riparian monitoring study on 24 water sources by UCCE (Snell et al. in process) shows extensive site damage across the territory.</i></p> <p><i>2015 Monitoring – stubble height standard exceeded.</i></p> <p><i>2014 Monitoring Report – heavy to severe use in Emigrant and Pine Springs allotments. Ponds and springs heavily disturbed.</i></p> |

| Monitoring Item | How | When | Actions to Take (Adaptive Management) | Implemented/ Completed |
|---|--|---|--|---|
| Population Management Monitoring | | | | |
| Decrease over-winter utilization by wild horses to moderate use when AML is achieved. Ensure there is adequate available water to maintain wild horses on a year-long basis | Measure utilization at key areas/use pattern mapping. Monitor water sources to assure adequate water availability during the year. | Annually, in late fall when livestock are removed and again in spring prior to livestock turnout. Continuously through the summer months. | Adjust AML, as needed, pending evaluation of monitoring results (after 2020). Adjust AML, early livestock removal. | <i>In 2018, over winter utilization exceeded moderate use levels across the entire Pine Springs allotment. Wide spread across Emigrant allotment.</i> <i>Post gather evaluations pending removals down to AML.</i> |
| Monitor/assess annual maintenance needs. | Site visits at water sources. | As needed, throughout the year. | Schedule and complete any necessary maintenance work. Document maintenance activities | <i>Annual monitoring of water sources has been conducted annually. Required reductions in livestock use to conserve waters during 2015-2016.</i> |

The TMP also has a tracking log and Implementation Schedule described on pages 17 through 18. As shown in Table 2, the status of those scheduled actions is described in the far right column.

Table 2. Tracking Log/Project Implementation Schedule, DGWHTMP 2013

| Description | Where | When | Completed/Remarks |
|---|--|---|--|
| Population Management Actions | | | |
| Schedule removals to attain AML by 2016. Schedule maintenance gathers to remove excess wild horses when the total wild horse population exceeds the AML for the WHT (about every 4-5 years, as needed). | Devil's Garden Plateau WHT | Annual gathers until AML is achieved, then every 4-5 years thereafter. Summer-Fall | <i>Gather conducted from private and Tribal lands in September 2016 which gathered 290 animals and removed 169 animals.</i> <i>Over upper AML by a factor of ten to eleven times.</i> |
| Assure all age classes are represented post-gather. | Devil's Garden Plateau WHT | About every 4-5 years, during AML maintenance gathers 2020, 2024 etc. Summer- Fall | <i>Not completed</i> |
| Prioritize removal of horses with deformities from the herd. | Devil's Garden Plateau WHT | During initial gathers to AML and about every 4-5 years, thereafter, 2020, 2024 etc. Summer- Fall | <i>Animals were inspected for pre-existing conditions during the 2016 gather.</i> |
| Prioritize conformation (similar phenotypes) over color when releasing animals back to the range. | Devil's Garden Plateau WHT | During initial gathers to AML and about every 4-5 years, thereafter, 2020, 2024 etc. Summer- Fall | <i>68 older, less adoptable studs were released back on territory in 2016.</i> |
| Collect hair and/or blood samples to determine whether the USFS's management is maintaining acceptable genetic diversity (avoiding inbreeding depression). | Temporary holding facility and/or short term holding facility. | Initial gathers to AML, then every 8-10 years thereafter. | <i>Genetic samples were collected for future analysis by UC Davis. No results from those samples.</i> |

| | | | |
|--|--------------------------------|--|---|
| Selectively release animals post-gather slightly in favor of males until the ratio is 50:50 males/females. | Temporary holding facility. | Each gather after AML is achieved. | <i>68 older studs were released back on territory in 2016.</i> |
| After attaining AML, apply fertility control to mares released back to the range every regularly scheduled gather, and monitor results in years 2-4 following treatment. | Temporary holding facility. | Each gather after achieving AML, 2016, 2020, etc. | <i>PCP was administered to 52 mares that were later released back to the territory.</i> |
| Construct new water developments to improve distribution of wild horses over the WHT. | Cow Head Pasture, Mowitz, etc. | Determine need and feasibility by 2015, construct by 2018, or as funding allows. | <i>Postponement of new water developments and other range improvements until high animal population is reduced.</i> |
| Maintain existing water developments. | Territory-wide | Annually/ as needed | <i>Improvements are being maintained annually per livestock grazing annual operating instructions.</i> |

CHANGED CIRCUMSTANCES SINCE SEPTEMBER 2013

Wild Horse Population

2013 Aerial Survey - An aerial survey completed in February 2013, using direct count method, estimated the overall wild horse population at 1,260 animals both within and outside the territory. Sighting probability using this method is typically less than two-thirds (66%) and can be as low as 41% in high tree cover (Lubow and Ransom 2007). From that survey it was estimated that Emigrant Springs Unit had a population of 223 animals and Pine Springs Unit had a population of 261 animals. The herd's annual recruitment rate was estimated to be 25% based on age distribution percentages from previous gathers where juvenile foals (less than one year in age) comprised 25% of the horses gathered.

2016 Aerial Survey - Aerial survey completed in April 2016, using simultaneous double-observer method with statistical analysis and sighting probabilities, estimated the overall wild horse population at 2,246 animals both within and outside the territory with a 90% confidence interval (Lubow 2016). From that survey it was estimated that Emigrant Springs Unit (including BLM Round Mountain HMA) had a population of 585 animals and Pine Springs Unit had a population of 437 animals. Assuming a 20% recruitment rate, the 2018 wild horse population for the territory is currently estimated at 3,881 animals; Emigrant Springs unit is estimated at 1,011 animals and Pine Springs unit is estimated at 755 animals. The Upper Appropriate Management Levels (AMLs) are 402 horses for DGWHT; 61 horses for Emigrant Springs unit and 72 horses for Pine Springs unit. As shown in Table 3, since 2013, the horse population has more than tripled in the last five years. The overall estimated population is nearly eleven times greater than the 402 animal upper AML. In Emigrant Springs Unit the estimated population of 1,011 animals is over 17 times the 61 animal upper AML. In Pine Springs unit the estimated population of 854 animals is nearly 12 times the 72 animal upper AML.

Wild horse distribution has expanded beyond the territory over the last five years. During the 2013 survey, wild horses were found in 274,275 acres. In 2016, wild horses were found in 438,918 acres, a 63% increase. Due to the high numbers of wild horses, pasture and allotment

fences are being damaged in multiple locations. The range program is postponing installation of any new fences or other range improvements until the herd numbers are brought back to AML. Several fires over the last five years contributed to the expansion of the wild horse population because fence boundaries destroyed by fire allowed horses to move into new areas. Wild horses occur in each of the different units of the WHT, with the exception of Potters Unit.

Table 3. Comparison of Appropriate Management Level, 2016 survey, 2018 population estimates, and departure from AML by grazing allotments within DGWHT

| Allotment | AML | 2013 Estimate | 2016 Survey | 2018 Estimate @ 20% recruitment | AML Departure 20% recruitment |
|-------------------------------|----------------|---------------|-------------|---------------------------------|-------------------------------|
| Carr | 32-78 | 116 | 129 | 223 | +145 |
| Surveyors Valley | 23-55 | 55 | 45 | 78 | +23 |
| Mowitz | 30-30 | 0 | 34 | 59 | +29 |
| Potters | 20-20 | 0 | 0 | 0 | -20 |
| Pine Springs | 29-72 | 261 | 437 | 755 | +683 |
| ¹ Emigrant Springs | 24-61 | 223 | 585 | 1011 | +950 |
| Timbered Mtn. | 48-86 | 138 | 252 | 435 | +349 |
| East Grizzlie | 0 | 0 | 34 | 59 | +59 |
| Other | N/A | 277 | 730 | 1261 | +1261 |
| Total | 206-402 | 1070 | 2246 | 3881 | +3479 |

¹Includes BLM Round Mountain HMA

Ground Surveys – Pine Springs allotment was inspected on May 22-24, 2018 by Range Specialists to assess range conditions. They also conducted roadside counts of horses and recording horse distribution. During that time, 478 horses were counted across the allotment. Roadside counts are considered an “Incomplete Counts” survey method which are useful in documenting direct animal counts, relative abundance (number per distance travelled), and changes in animal distribution. Sighting probability using this approach cannot be calculated unless transects are replicated and will vary widely based on accessibility, line of sight and the area covered. Actual population numbers in the units surveyed are multiple times the observed count. During June 6-7, June 11 and June 21 our Wild Horse Interns surveyed Emigrant Springs allotment counting and recording distribution of wild horses. In the four days, 545 horses were observed and counted across the entire allotment. Most observations were from the roads; however, several places were walked into in order to locate horses. Table 4 shows the May and June 2018 roadside counts as compared to upper Appropriate Management Level buy allotment.

Table 4. Roadside counts on Pine Springs and Emigrant Springs Allotments, June 2018

| Allotment | Upper AML | Adult horse | Foals | Total |
|-----------------|-----------|-------------|-------|-------------|
| Pine Springs | 72 | 425 | 53 | 478 |
| Emigrant Spring | 61 | 475 | 70 | 545 |
| Total | | | | 1023 |

Wild Horse Gather in 2016

The first gather, since the development of the DGWHTMP, occurred in September 2016. The 6-day gather was limited to private and tribal lands and removals were made at the request of the land owners (Figure 1).

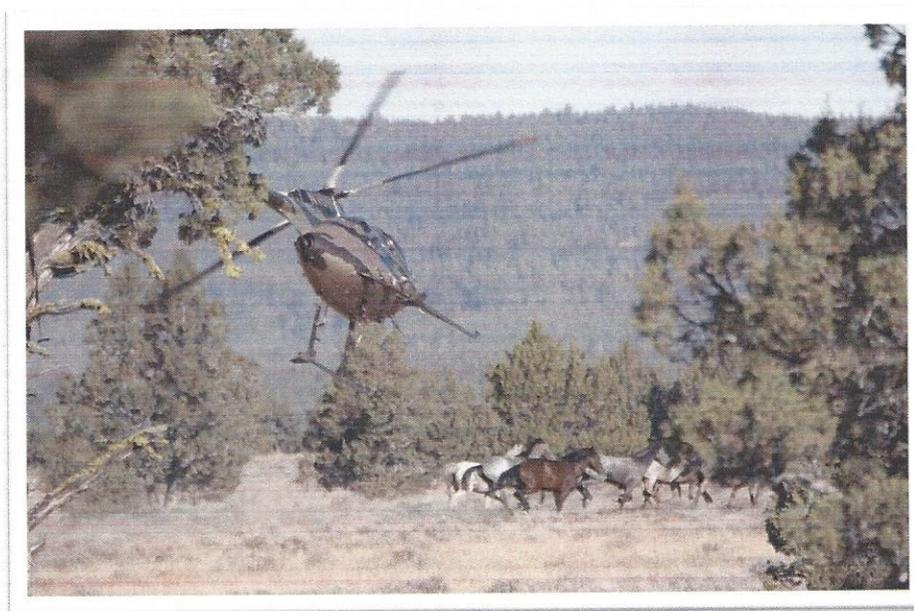
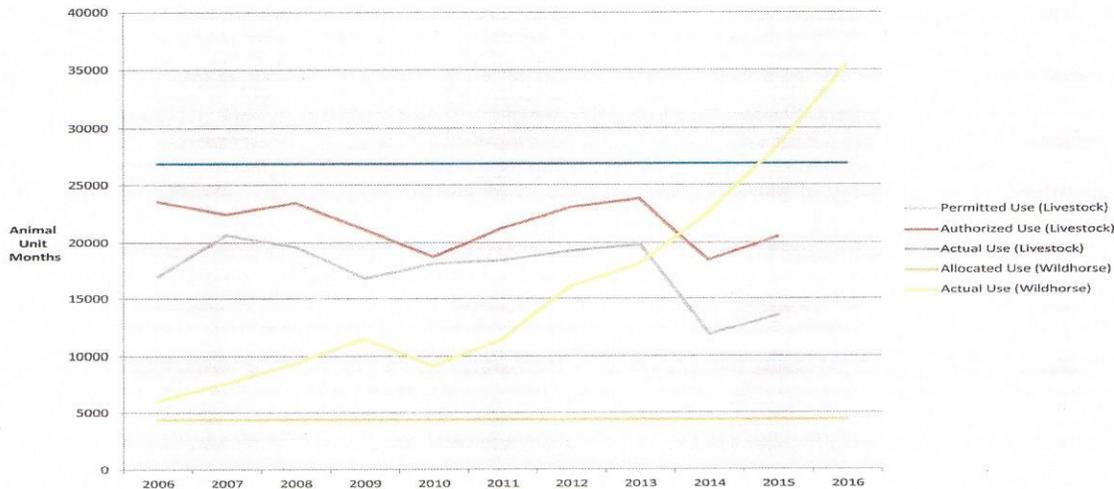


Figure 1. Helicopter driven trap gather of horses off Avanzino Ranch, September 2016

Available Livestock Forage, Rangeland and Watershed Conditions

All or a portion of eleven grazing allotments managed by the Devil’s Garden and Doublehead Ranger Districts of the Modoc National Forest lie within the WHT (Attachment #4). Authorized livestock use levels have been reduced annually since 2013 and by 50% each year since 2015. In 2018, grazing authorizations on Pine Springs and Emigrant Springs allotments were reduced to 11% and zero respectively. Wild horse use has been increasing exponentially since 2006 as shown in Figure 2. Over winter horse use is exceeding utilization standards.

Figure 2. Trends in authorized grazing and wild horse actual use, 2006-2016



On Pine Springs Allotment, May and June 2018 utilization monitoring indicate that the trend in horse use is continuing to exponentially increase. Utilization mapping (Attached Map #2) indicates that nearly the entire allotment, across uplands and riparian areas has exceeded residual forage conditions prior to the 2018 growing season.

Increasing numbers of horses have moved outside the territory boundary in search of forage and water. In addition, significant impacts on ecosystem health and rural economies have resulted due to wild horses both inside and outside the Territory, including:

- Highly degraded riparian areas;
- Loss of one or more endemic plant species on many upland ranges;
- Conversion to annual grasses and invasive plants on many other range sites;

Early summer heavy grazing levels at riparian sites was typical. Denuded site conditions (Figure 4) were conditions found at each of the 10 sites monitored.

Figure 3. Relative use on riparian sites in Devil's Garden WHT by wild horses and other grazers, 2015-2017 (Unpublished research Snell et al.)

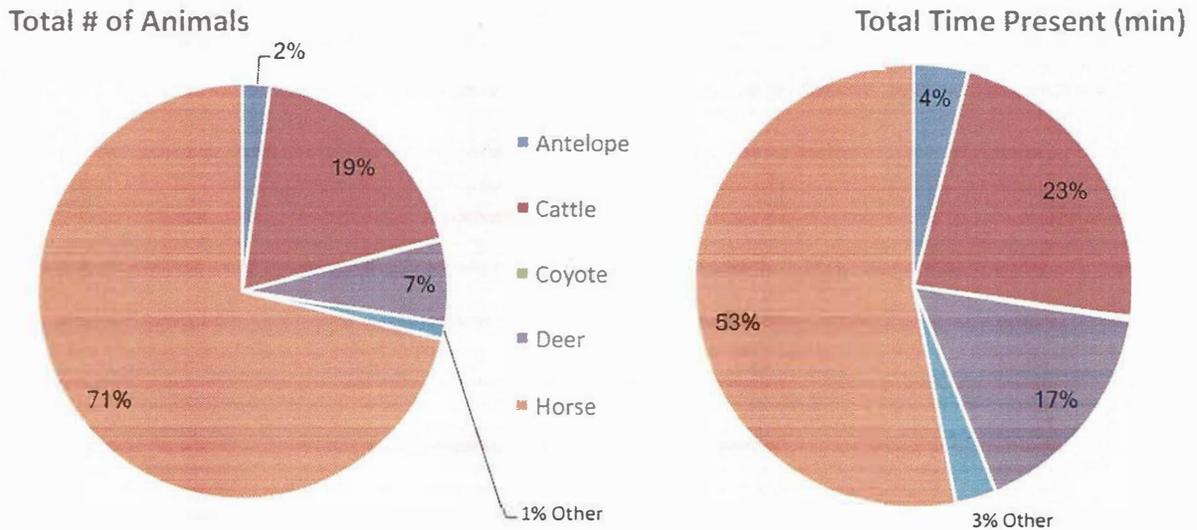
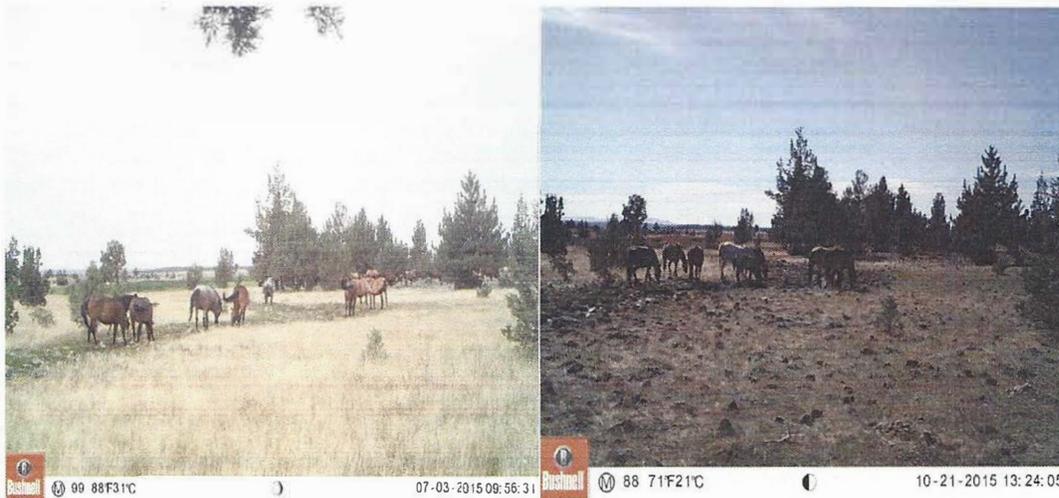


Figure 4. Photo comparison of horse use at Goose Lake Springs in July and October, 2015. Site is denuded of forage and high ground disturbance (Unpublished research Snell et al.).



In summary, the exponential increase in the wild horse population has resulted in widespread heavy to severe grazing and ground disturbance. Northeastern California experienced drought from 2011 through 2016. These drought conditions placed additional stressors on both riparian and upland forage plant species. Key use areas, particularly riparian areas are either at or moving towards unsatisfactory conditions. Devil's Garden WHT consists of large bodies of water, wet meadows, intermittent and ephemeral streams, and ditches. Riparian and wetland areas are receiving year-round use by wild horse numbers in excess of the established AML. Hydrological function at these riparian sites is either functioning-at-risk or non-functional. These prolonged impacts from horses is contributing to the nonfunctional condition of more springs and seeps

within the WHT each year.

Pine Springs and Emigrant Springs allotments both have predominantly Moderate Erosion Hazard Ratings (2013 EA Table 23). Current horse population levels with year around grazing has resulted in some sites being denuded of residual ground cover. These sites are vulnerable to surface and rill erosion following precipitation events.

Near record precipitation occurred in 2017 followed by near normal precipitation in 2018 (source: <http://droughtmonitor.unl.edu/>). Though the range has responded to improved growing conditions, recent damage to by horses observed on Devil's Garden WHT in 2017 and 2018 include:

- Severely trampled wet meadow leading to loss of hydrologic functionality.
- Trampled, denuded spring and seep systems impacting water sources for wildlife and livestock.
- Bank shear and channel widening leading to further degradation of meadow and riparian systems.
- Based on the assumption that most or all of the vegetative surface cover has been removed due to management practices or to wildfire, soil erosion is increasing and becoming more widespread across the water.
- Fencing and fence enclosures around springs and seeps, when maintained, can protect hydrologic resources from overuse by wild horses and livestock.
- A horse gather would reduce the impacts being caused to soils, both spatially and temporally, from an overpopulation of horses however it would not change the overall soils effects analysis in the 2013 EA.

OTHER RESOURCES TO BE CONSIDERED FROM THE ORIGINAL ANALYSIS

Heritage

Only about 12% of the total area has been acceptably surveyed for the presence of heritage resource properties. Case-by-case inventories of any planned gather will take place in compliance with the National Historic Preservation Act to assure that these activities do not adversely affect significant cultural or heritage properties.

Botany

Federally-Listed Plant Species: Greene's tuctoria (*Tuctoria greenei*) (Endangered), slender Orcutt grass (*Orcuttia tenuis*) (Threatened). Forest Service (FS) Pacific Southwest Region (R5) Regional Forester's Sensitive Plant Species (2013) with vernal pool habitat: ephemeral monkeyflower (*Mimulus evanescens*), playa phacelia (*Phacelia inundata*).

Trampling of vernal pools by wild horses could threaten the ecological function of these

communities and lead to their degradation. Trampling and herbivory from wild horses may damage Threatened, Endangered, and/or Sensitive plant species and/or their habitats. Noxious weeds and invasive and nonnative annual grasses are a major concern, and wild horse disturbance could greatly exacerbate their spread. Wild horses may serve as vectors for the spread of noxious weeds.

Recreation

More than 80% of the recreation use in the WHT is dispersed. No developed recreation sites are within the WHT, and there are no inventoried roadless areas or wild and scenic rivers. The WHT lies within the California Department of Fish and Wildlife's X2 hunting zone. If possible, helicopter-assisted gathers would be scheduled outside the mule deer hunting season to minimize potential conflicts with hunting success. The gather schedule would be provided to the California Department of Fish and Wildlife in order to inform hunters utilizing the X2 hunting zone. A horse gather in 2018/2019 would not change the effects analysis in the 2013 EA.

Socioeconomics

The analysis of socio-economics is limited to impacts to the local economy due to the potential changes in livestock management. A horse gather in 2018/2019 would not change the effects analysis in the 2013 EA.

Wildlife and Fisheries

Federally Listed Species

Lost River sucker (*Deltistes luxatus*) is in the WHT Management Plan area, but there would be no change in the analysis or the *May Affect not likely to Adversely Affect* determination stated in the 2013 Biological Assessment.

Shortnose sucker (*Chasmistes brevirostris*) has been located in the WHT Management Plan area, but there would be no change in the analysis or the *May Affect not likely to Adversely Affect* determination stated in the 2013 Biological Assessment.

Northern spotted owl (*Strix occidentalis caurina*) required habitat does not occur in Devil's Garden Plateau. Consequently, there would be no change to the *No Affect* determination stated in the 2013 Biological Assessment.

Gray wolf (*Canis lupus*) may occur incidentally in the proposed WHT Management Plan area, but currently there are no known den or rendezvous sites on the Modoc National Forest. Consultation would occur, if evidence of breeding wolves appears in the future. There would be no change to the *Not Likely to Affect* determination stated in the 2013 Biological Assessment.

California wolverine (*Gulo gulo luscus*) is not expect within the WHT Plan area. There would be no change to the *No Affect* determination stated in the 2013 Biological Assessment.

Region 5 Forest Service Sensitive Wildlife Species

There are no changes in the distribution of northern goshawk (*Accipiter gentilis*), greater sandhill crane (*Grus canadensis tabida*), greater sage grouse (*Centrocercus urophasianus*), bald eagle

(*Haliaeetus leucocephalus*), pallid bat (*Antrozous pallidus*), or the removed Swainson's hawk as analyzed in the 2013 EA. Therefore, there would be no change in the *May Affect, Not likely to Result in Trend toward Federal Listing* determinations stated in the 2013 Biological Assessment or the design criteria found in the 2013 EA for these species.

Modoc Sucker - Modoc sucker (*Catostomus microps*) was delisted in 2015 and is now considered a Region 5 Forest Service Sensitive Species. Although the distribution of the delisted Modoc sucker occurs in multiple locations on Modoc National Forest, the species does not occur within the Devil's Garden WHT. There would be *No Affect* to Modoc sucker or occupied habitat by the implementation of the WHT Management Plan.

Management Indicator Species (MIS)

Although habitat for aquatic macroinvertebrates, greater sage-grouse (*Centrocercus urophasianus*), and Pacific tree frog (*Pseudacris regilla*) occur within the WHT Management Plan area, there would be no change in the effects to habitat for any of these MIS species from that documented in the original EA.

Migratory Birds

As discussed in the 2013 EA, the WHT Management Plan would not adversely impact nineteen species of migratory landbirds or their associated habitats within or near Devil's Garden WHT.

Wildlife and Fisheries Changed Circumstances since September 2013

The Western yellow bill cuckoo (*Coccyzus americanus*; Threatened status) and Pacific fisher (*Pekania pennanti*; Proposed as Threatened status) were not analyzed in the 2013 Biological Assessment but are now federally listed or proposed for listing by the U.S. Fish and Wildlife Service. Prior to setting up a trap or temporary holding facility, personnel would conduct all necessary clearances. Modoc sucker (*Catostomus microps*) was delisted in 2015 and is now considered a Region 5 Forest Service Sensitive Species. Swainson's hawk (*Buteo swainsoni*) is no longer considered a Region 5 Forest Service Sensitive Species.

Environmental Justice

Modoc County has a lower minority population than California or the United States, but a higher American Indian population. This was fully disclosed in the EA and would not change from the effects analysis in the 2013 EA.

Climate Change

The project area is considered to be in the Northeast climate region of the Sierra Cascade Climate Province. This was fully disclosed in the EA and would not change from the effects analysis in the 2013 EA.

Heritage Properties Site Clearances

No personnel working at gather sites may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage or otherwise alter or deface any archaeological resource located on public lands or Indian lands. Prior to setting up a trap or temporary holding facility, personnel will conduct all necessary clearances (archaeological, T&E, etc.). All proposed site(s) must be inspected by a government archaeologist. Once archaeological clearance has been

obtained, the trap or temporary holding facility may be set up. Said clearance shall be arranged by the Contracting Officer Representative, PI, or other Forest Service employees. Gather sites and temporary holding facilities would not be constructed on wetlands or riparian zones.

RELEVANCE OF SUPPLEMENTAL INFORMATION

An environmental assessment (EA) was prepared and circulated for public comment to develop and implement a Territory Management Plan for the Devil's Garden Plateau Wild Horse Territory. The decision notice was signed August 27, 2013. As shown in Table 3, the horse population was estimated to be 1,070 animals. To achieve AML in 2013, 864 excess animals would have needed to be removed to reach the 206 AML lower limit. In 2018, it is estimated 4,181 animals would now need to be removed to reach the 206 AML lower limit. This new information is relevant to making an updated excess determination for removal of a larger number of excess horses. Also, whether the additional gather activities would require any further analysis or a substantial change in the identified management actions. The new information does not require a change to the TMP management actions or established AML.

CONSEQUENCES OF THE SIR AND ITS CONCLUSIONS

The proposed 2018/2019 gather(s) would not change the analysis from the 2013 EA. Some resource conditions have deteriorated due to increased wild horse overpopulation, drought and wild fire. There would be no significant impact as a result of the proposed gather.

SUPPLEMENTAL INFORMATION REPORT VERIFICATION

Per Forest Service Handbook (FSH) 1909.15, Section 18.1, a SIR is not a NEPA document and cannot be used to fulfill the requirements for a supplemental EA. A SIR cannot repair deficiencies in the original environmental analysis or documentation, nor can it change a decision. Attachment #4 is a NEPA sufficiency checklist. Specialists for each identified resource area have reviewed the new information or changed circumstances and have verified that the original 2013 EA analysis and disclosure regarding environmental effects is sufficient.

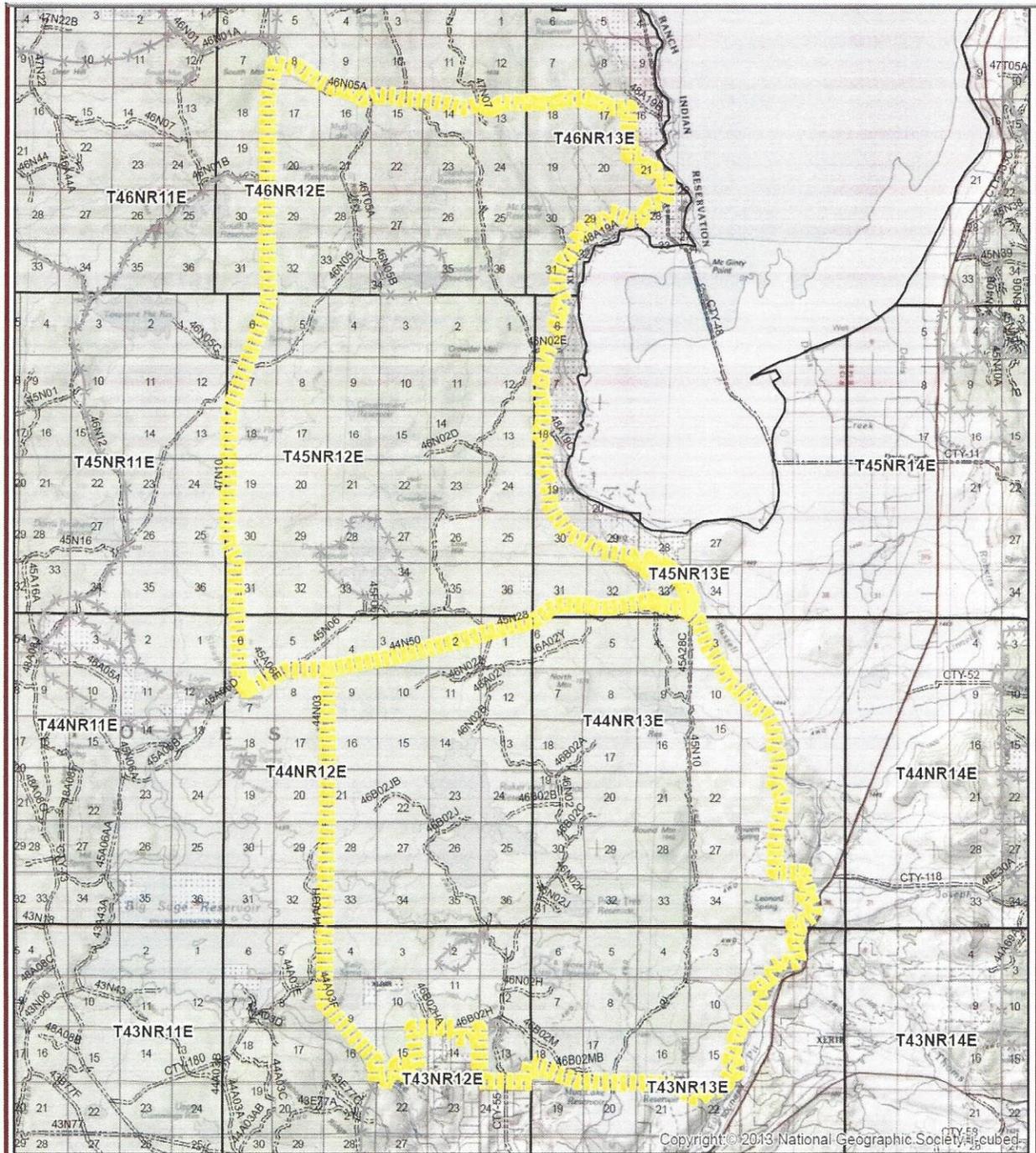
RECOMMENDED SUFFICIENCY DETERMINATION

Based on the review of the EA, DN, TMP, new information, and changed conditions, potential effects from the planned 2018/2019 gather(s), as described in this report, are sufficiently analyzed within the scope of the original proposed action in 2013 environmental analysis. No additional analyses are needed at this time.



AMANDA G. MCADAMS
Forest Supervisor

Attachment #1 – Planned Gather Area in 2018/2019



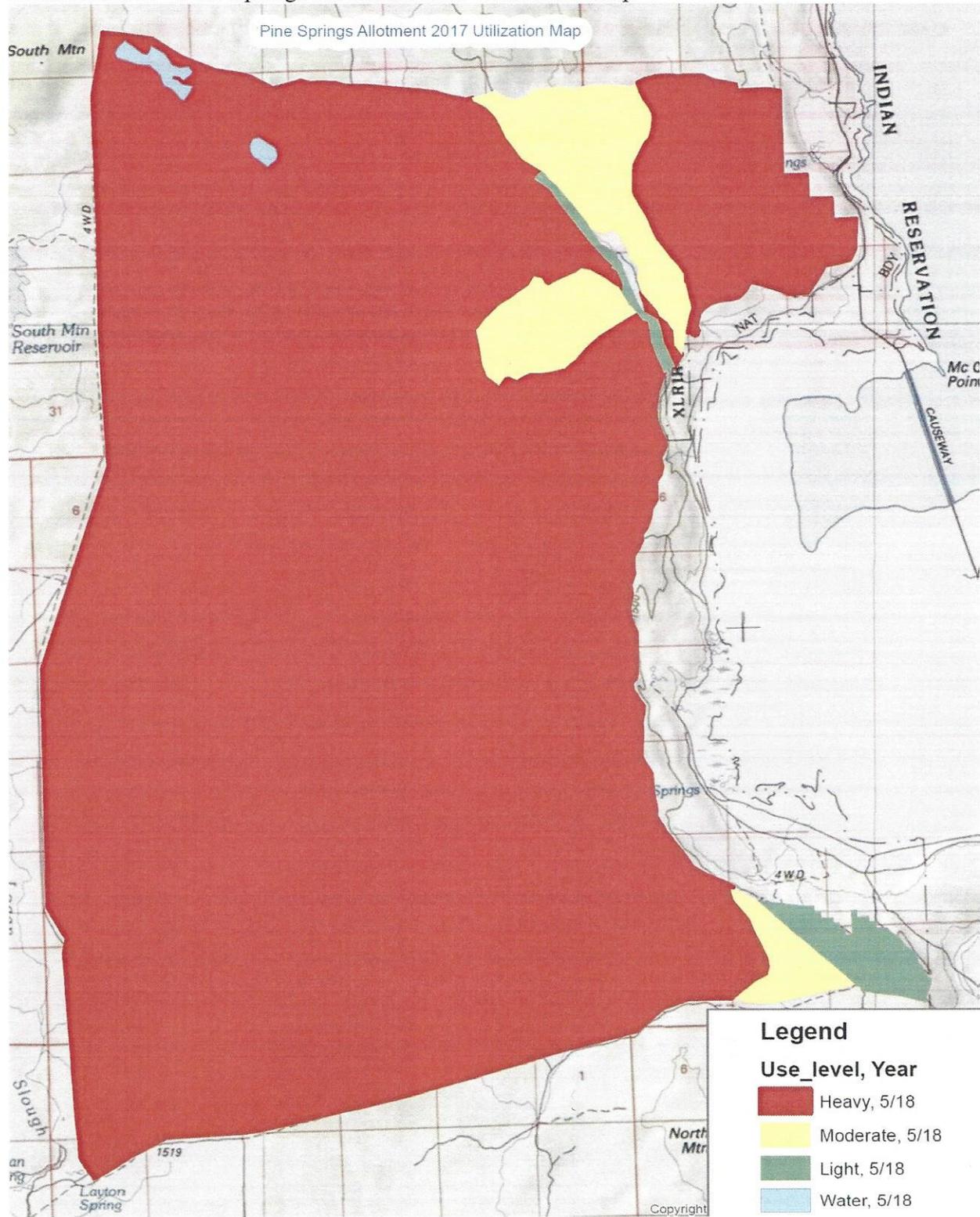
DISCLAIMER:
 The USDA Forest Service uses the most current and complete data available. GIS data and product accuracy may vary. Using GIS products for purposes other than those for which they were intended may yield inaccurate or misleading results. The USDA Forest Service reserves the right to correct, update, modify, or replace GIS products without notification.

0 1 2 4 Miles
 1:161,811 1 in = 3 miles

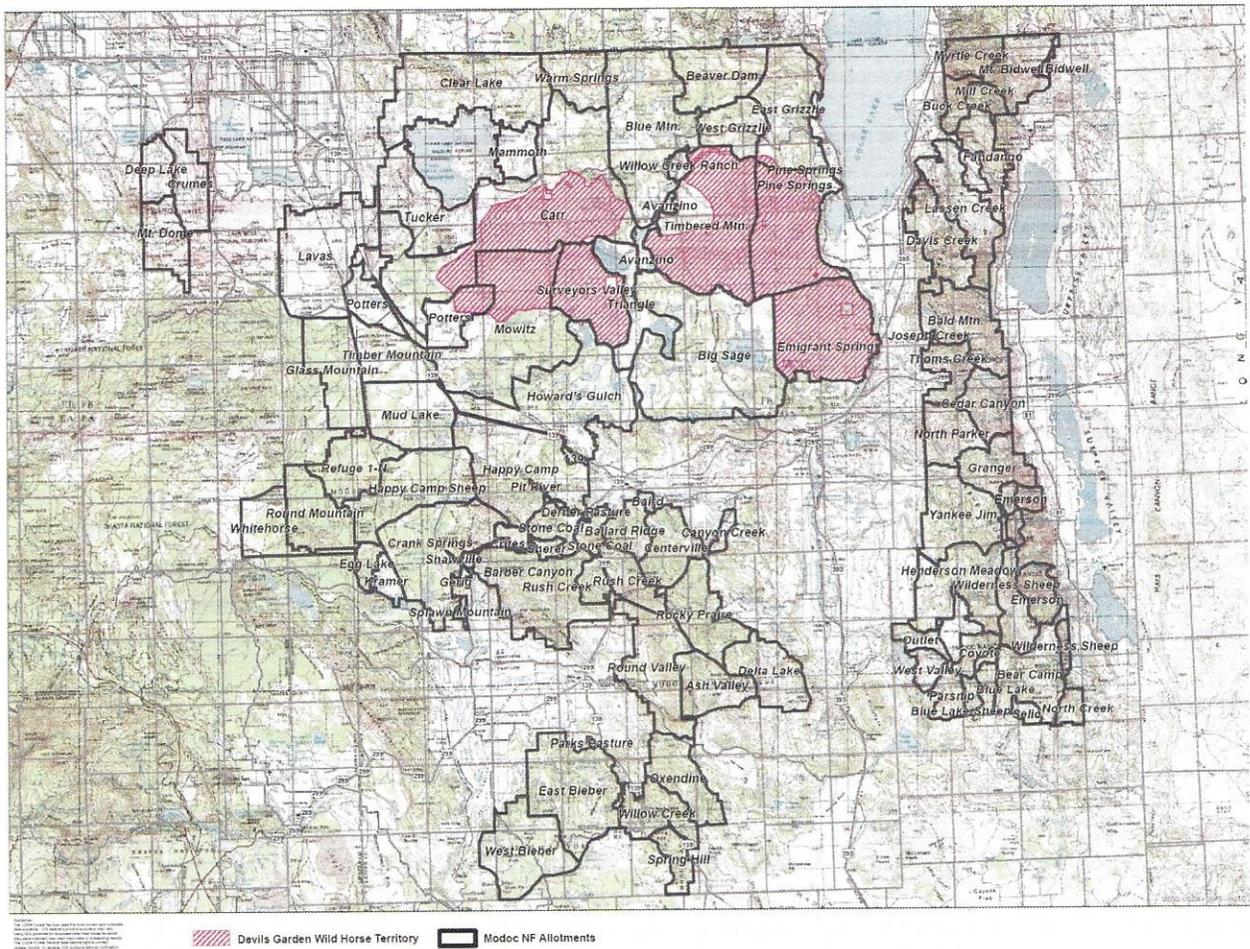
 Gather Area
 Fence
 Date Saved: 5/29/2018jjayo

Path: T:\FS\FNS\Modoc\Program\2200Range\GIS\DGRD\wildhorse\StatementOfWork6.mxd

Attachment #2 – Pine Springs Allotment 2017 Utilization Map



Attachment # 4 Modoc NF Devil's Garden Grazing Allotments and Wild Horse Territory



ATTACHMENT #5

**Modoc National Forest Devil's Garden Ranger District
Interdisciplinary Review of New Information or Changed Conditions**

PROJECT NAME: Devil's Garden Wild Horse TMP 2013 NEPA Sufficiency Determination

| | |
|----------------------------|---|
| DATE & INITIALS | Specialists in these resource areas have reviewed the new information or changed circumstances and have verified that the original EA analysis and disclosure regarding environmental effects is sufficient. |
| | <p>HERITAGE RESOURCES Are effects on Native American religious or cultural sites, archaeological sites or historic properties generally the same as predicted in the existing NEPA document? – damages may have increased in scope and type. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How do you know? <input type="checkbox"/> Formal Monitoring <input checked="" type="checkbox"/> Personal Observation Explain: Very few archaeological sites are surveyed. Few of those are monitored. No indication of damage to resources are lessened and most likely increased.</p> <p>Do you know of any new information or changed circumstances that would warrant updating the original analysis? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, explain: July Compmlx 2017 fires and 85-90% never surveyed. Horses increased in long-term effects of changing water/grasslands composition by horses are unknown on resources.</p> |
| | <p>BOTANY RESOURCES Are effects on threatened, endangered, proposed, or sensitive plants generally the same as predicted in the NEPA document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How do you know? <input type="checkbox"/> Formal Monitoring <input checked="" type="checkbox"/> Personal Observation Explain: The MDF Botany GIS Database identified one occurrence of a Threatened, Endangered, Proposed or Sensitive plant within the project area.</p> <p>Are effects on noxious weed and other invasive, non-native plant species generally the same as predicted in the NEPA document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How do you know? <input type="checkbox"/> Formal Monitoring <input checked="" type="checkbox"/> Personal Observation Explain: The MDF Botany GIS Database identified 28 occurrences of noxious weeds composed of four different species. Various invasive and exotic plant species are common throughout the Modoc Plateau.</p> <p>Do you know of any new information or changed circumstances that would warrant updating the original analysis? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, explain:</p> |

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| | <p>GRAZING Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: The current wild horse population is above the AML therefore the removal of excess horses is needed.</p> |
| | <p>RECREATION Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: The WHT lies within the California Department of Fish and Wildlife's X2 hunting zone. If possible, helicopter-assisted gathers would be scheduled outside the mule deer hunting season to minimize potential conflicts with hunting success. A horse gather in 2018/2019 would not change the effects analysis in the 2013 EA.</p> |
| | <p>SOCIOECONMIC Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: The analysis of socio-economics is limited to impacts to the local economy due to the potential changes in livestock management. A horse gather in 2018/2019 would not change the effects analysis in the 2013 EA.</p> |
| | <p>WILD HORSES Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How do you know? <input checked="" type="checkbox"/> Formal Monitoring <input checked="" type="checkbox"/> Personal Observation Explain: With ground surveys and the last census we are well above the set AML therefore we need to gather.</p> |
| | <p>T&E/SENSITIVE FISH/WILDLIFE Are effects on threatened, endangered, proposed, sensitive species or critical habitat generally the same as predicted in the NEPA document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: With the sue of the design features, the effects on TES species are expected to be the same as those analyzed within the EA – see above Wildlife and Fish sciton in this document.</p> <p>Do you know of any new information or changed circumstances that would warrant updating the original analysis? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, explain:</p> |

| | |
|--|---|
| | <p>MIS FISH/WILDLIFE Are effects on MIS species/critical habitat generally the same as predicted in the NEPA document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: There is no expected change in the trend of MIS habitats and the distributoion of those species as analyzed within the EA (see previous wildlife/fish section).</p> <p>Do you know of any new information or changed circumstances that would warrant updating the original analysis? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, explain:</p> |
| | <p>WATERSHEDS Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: Damage to riparian resources by horses has been observed.</p> |
| | <p>ENVIRONMENTAL JUSTICE Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: A one time beneficial effect for temporary labor was proposed and one time construction of 14 miles of fences. There has not been an additional proposal and would not change analysis from 2013.</p> |
| | <p>CLIMATE CHANGE Is the action still within the scope of the original analysis and decision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: The EA evaluated impacts of grazing on vegetation and determined that it could exacerbate the effects of climate change on vegetation resources. That will not change as a result of the gather. Nor does it change the analysis of invasive species as analyzed in the 2013 EA.</p> |
| | <p>ENVIRONMENTAL LAWS Is the action still consistent with Federal, State, and local laws or requirements for the protection of the environment? Consider any new laws, regulations, ordinances. Consider whether or not any actual effects have exceeded predicted thresholds to the point of threatening to violate any environmental requirements. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Explain: In conformance with Modoc LRMP, 2004 Sierra Nevada Forest Plan Amendment, Endangered Species Act, National Historice Preservation Act as analyzed under the 2013 EA.</p> <p>Do you know of any new information or changed circumstances that would warrant updating the original analysis? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, explain:</p> |