



File Code: 2260  
Route To: (1950)

Date: July 23, 2018

Subject: Devil's Garden Wild Horse Territory Plan Implementation

To: Patricia Clinton, Acting District Ranger, Forest Leadership Team

### Updated Excess Wild Horse Determination

#### Background

The 258,000-acre Devil's Garden Plateau Wild Horse Territory (Wild Horse Territory) was created as a result of the 1971 Wild Free-Roaming Horses and Burros Act to protect descendants of the horses turned out to graze by some of the same ranches now affected by wild horse overpopulation. The horses remaining on the Wild Horse Territory today are made up of a wide range of genetic stock, but are well known to be large, hardworking, friendly, and relatively easy to train.

An aerial survey in 2016 found 2,246 adult wild horses in and around the Wild Horse Territory, but the population is now estimated at approximately 3,900 horses. The 2013 Devil's Garden Plateau Wild Horse Territory Management Plan (TMP) designates the Appropriate Management Level of 206-402 as the population Wild Horse Territory lands can support while also supporting aquatic, wildlife, grazing, and other multiple-use resources.

Impacts of overpopulation range from removal of vegetation from riparian areas and competition for food and water to loss of income for life-long permittees and threats to the already-struggling economy of Modoc County. These costs continue to increase along with the wild horse population. The longer it takes to address the issue the more it will cost the taxpayers in the form of management costs and the people of Modoc County in the form of lost revenue and jobs. Impacts to natural resources such as water and wildlife may be irreversible without significant investment.

#### Territory Management Plan

Excess determination criteria, as described in the TMP (page 21), are being observed for criteria one and two of the three listed. Those criteria are: 1) when the total population exceeds the AML, or 2) when animals are found to be permanently residing outside the Wild Horse Territory core area, or 3) when animal health/condition is at risk. Other resource considerations include rangeland/habitat conditions, overall wild horse herd health, and health of ecosystem.

Before the Forest Service can remove wild horses from the territory, the Wild Horse Act requires the responsible deciding official to use current information to make a two-part determination: first, "an overpopulation exists on a given area of the public lands," id. § 1333(b)(1); and second, that instead of addressing overpopulation through options "such as sterilization, or natural



controls on population levels,” id. § 1333(b)(1), “that action is necessary to remove excess animals,” id. § 1333(b)(1). Once the responsible deciding officer makes these determinations, the Wild Horse Act provides that the agency “shall immediately remove excess animals from the range so as to achieve appropriate management levels.” 16 U.S.C. § 1333(b)(2). The Wild Horse Act establishes an order of priorities when removing excess horses but does not establish a specific statutory deadline for the completion of any particular removal action. Id.

Regulation 36 C.F.R. § 222.61 directs the Forest Service to analyze each Wild horse and Burro territory and, based on that analysis, develop and implement a territory management plan. Regulation 36 C.F.R. § 222.69(a) also authorizes the Forest Service to determine when an over-population of wild horses exists and removal is required. Regulation 36 C.F.R. § 222.61(a) provides the steps required to make an “excess” determination: (4) analyze each wild horse or burro territory and, based on the analysis, develop and implement a management plan, which analysis and plans will be updated, whenever needed, as determined by conditions on each territory; and (5) maintain a current inventory of wild free-roaming horses and burros on each territory to determine whether and where excess animals exists; then (6) based on paragraphs (a) (4) and (5) of this section, determine appropriate management levels, whether action should be taken to remove excess animals and what actions are appropriate to achieve the removal or destruction of excess animals.

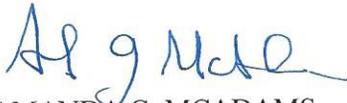
Forest Service manual direction defines a TMP as an operational plan (FSM 2260 definitions). As stated in the Devil’s Garden Plateau TMP, it serves to document management goals, objectives, actions, and monitoring requirements. The TMP is meant to guide management of the territory for the next 15-20 years. It is also meant to be a living document whereby the TMP is amended or revised approximately every 10 to 20 years as needed to reflect changed conditions after supplemental NEPA analysis. The Devil’s Garden Plateau TMP provided desired condition attainment dates; satisfactory rangeland conditions within 7 to 12 years. The Devil’s Garden Plateau TMP also anticipated attainment of the appropriate management level (AML) by 2016 if gathers were initiated in 2013. The 2013 Decision Notice and territory management plan made the excess determination with guidance to implement a phased gather schedule over the course of 4 to 5 years starting in 2013; and thereafter for 15-20 years. The excess/gather decision was to be updated and/or revised about every five years following monitoring of population numbers and distribution, herd health, and rangeland/habitat conditions.

Based on previous experience with placement of excess horses from the 2016 gather, it is anticipated that placement of these excess animals may take 12 months or longer. Depending on gather success more than one planned gather may be necessary to remove 1,000 animals. Although there are no specific plans to return horses to the Wild Horse Territory, any adult mares that are returned will be treated with PZP contraception vaccine before being released. Animals with pre-existing conditions or injuries may need to be humanely euthanized. The desired placement of all horses is through adoptions and sales to avoid putting horses in long-term holding.

### Updated Excess Determination

The 2013 TMP (page 21) provides three criteria for making or adjusting excess wild horse determinations: 1) when the total population exceeds the AML, or 2) when animals are found to be permanently residing outside the Wild Horse Territory core area, or 3) when animal health/condition is at risk. In making an excess determination, other considerations need to be included such as rangeland conditions, ecosystem health, excess horse placement capability, workforce capacity, operational capacity, current and out year budget priorities, and other on-range management options. At this time, wild horse populations have exceeded the designated appropriate management level and horses are permanently residing outside the Wild Horse Territory.

I have accounted for: 1) review of the TMP (page 21, criteria for adjusting excess wild horse determinations); 2) funding; 3) agreements to gather, hold and place excess animals; and 4) other placement services through contracts and/or agreements. **Based on all these factors I hereby determine that 1,000 excess adult wild horses and their foals will be removed from Pine Springs and Emigrant Springs units, areas outside the territory adjoining those two units, and other private or tribal lands inside or outside of the territory.**



AMANDA G. MCADAMS  
Forest Supervisor