



May 10, 2018

VIA MAIL AND PARK PLANNING WEBSITE (<http://parkplanning.nps.gov>)

Superintendent
Mesa Verde National Park
PO Box 8
Mesa Verde, CO 81330-0008

Re: Comment, Mesa Verde Livestock Removal Environmental Assessment

Dear Superintendent:

Friends of Animals¹ submits these comments in response to the April 2018 Mesa Verde National Park Livestock Removal Environmental Assessment (EA) to request that the National Park Service (NPS) consider the impacts of its proposed actions. In the EA, NPS proposes to remove “livestock,” including horses, from Mesa Verde National Park (MVNP). The preferred alternative also includes lethal reduction methods, specifically aimed at wild horses. According to the EA, the action is needed because park programs and practices, including maintaining fencing along its boundary, have not been effective at removing and preventing livestock, including horses, from entering the park.

According to the EA, roundups would occur “anywhere within the 30,310 acres of current livestock trespass range” and approximately 80 horses are distributed throughout the park. The EA declares that horses must be removed because NPS does not have the legal authority under 36 C.F.R. § 2.60 to allow livestock use in the MVNP. NPS claims that the number of “trespassing” horses has increased in the past 20 years and the recruitment rate has surpassed the rate of removal.

Friends of Animals has several issues with the proposed action. First, it is unclear why NPS considers all of the horses found within MVNP to be livestock. Livestock is generally defined as farm animals that are regarded as an asset. In almost all cases, livestock are domesticated animals raised in an agricultural setting for a commercial purpose. The

¹ Friends of Animals is a non-profit international advocacy organization incorporated in the state of New York since 1957. Friends of Animals has nearly 200,000 members worldwide. Friends of Animals and its members seek to free animals from cruelty and exploitation around the world, and to promote a respectful view of non-human, free-living and domestic animals. Friends of Animals regularly advocates for the right of wild horses to live freely on public lands.

horses within MVNP do not meet this definition. Indeed, there is significant evidence that many of the horses within MVNP may be wild horses and that wild horses have existed in the area since the early 1900s.

Notably, in 1971, Congress passed the Wild Free-Roaming Horses and Burros Act² (WHBA) because it was “concerned that wild horses were vanishing from the West.” Congress declared that “wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people.”³ Congress stated, “wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death, and to accomplish this they are to be considered in the area where presently found as an integral part of the natural system of public lands.”⁴ The WHBA defines “wild free-roaming horses and burros” as “all unbranded and unclaimed horses and burros on public lands of the United States.” Although the WHBA does not apply to horses on NPS land, the passage of the WHBA clearly demonstrates that Congress intended that wild horses should be protected. Thus, given that the horses found within MVNP may be unbranded and unclaimed wild horses, the NPS should not treat them as livestock and instead should protect them.

Second, under the National Environmental Policy Act (NEPA), NPS is required to consider all reasonable alternatives. Here, NPS analyzed only two alternatives in the EA: (1) a “no action” or current management alternative; and (2) the Preferred Alternative. Both alternatives include maintaining and replacing boundary fences, hazing, reconnaissance surveys, and owner notification. Additionally, both alternatives including rounding up all of the horses, whether wild or domestic, and removing them from the park.

The most significant difference between the two alternatives is the lethal reduction component of the Preferred Alternative. According to NPS, directly reducing livestock, specifically horses, by lethal means, particularly firearms, has been retained as a “final resort option” and would only be used when there is an “imminent safety hazard to humans or if all other proposed capture and removal methods had failed.” While it is true that NPS has the authority to use lethal means to remove animals that are detrimental to the park,⁵ Friends of Animals urges NPS to not resort to this option in any situation.

² 16 U.S.C. §§ 1331 *et seq.*

³ 16 U.S.C § 1331.

⁴ *Id.*

⁵ See 54 U.S.C. § 100752 (“The Secretary may provide for the destruction of such animals and plant life as may be detrimental to the use of any System unit.”). Notably, NPS also invokes NPS Management Policies § 4.4.4.2 (Removal of Exotic Species Already Present) to support its authority to kill wild horses. However, under § 4.4.4.2, NPS must first determine that the horses are an “exotic” species. For species determined to be exotic and where management appears to be feasible and effective, NPS should (1) evaluate the species’ current or potential impact on park resources; (2) develop and implement exotic species management plans according to established planning procedures; (3) consult, as appropriate, with federal, tribal, local, and state agencies

Considering that there are so few horses within MVNP, and that the horses do not pose any imminent danger to humans, lethal reduction methods are both unethical and unnecessary.

Another significant difference is the use of helicopters under the Preferred Alternative. For numerous reasons, helicopters should not be used to round up horses. Biologists, wild horse advocates, and others increasingly agree that driving wild horses across the land to traps where they can be removed by land-based vehicles is not a humane way to manage horses, whether wild or domestic. Every indication is that an approaching helicopter produces an equally wide range of emotional and physical responses in a wild horse as it would in a human.

Wild horse behavioral specialist, Dr. Bruce Nock, studied and described the intricate physiological events that take place within a horse subjected to these roundups.⁶ As described by Dr. Nock, horses initially experience what is known as the fight-or-flight reaction—bodily changes that enhance a horse’s chances of surviving a frightening situation by increasing his/her alertness, capacity for physical exertion and ability to withstand injury.⁷ In Dr. Nock’s professional opinion, while this reaction might enhance a wild horse’s chance of surviving the roundup itself, it is not “an exaggeration to say, as gathers are routinely done in the USA, if a wild horse doesn’t die straight off from the immediate devastation and commotion, it compromises him/her physically and mentally, putting him on a path of accelerated deterioration.”⁸ Indeed, stress from the actual roundup only begins for wild horses targeted for removal when the helicopters arrive.

Furthermore, both alternatives include removing all of the horses, both wild and domestic, from the MVNP and subjecting all 80 of the horses to a lifetime of captivity.

Again, Dr. Nock explains:

But these overt consequences are just the tip of the iceberg The body doesn’t distinguish between a fight-or-flight situation, like being chased by a helicopter, and [other] psychological stressor[s]. That means the bad news for wild horses only begins with the gather. . . . To these wild horses, the sources of stress must seem endless. Everything is foreign . . . truly disturbing for a species that depends on familiarity for safety and comfort. [] Everything about captivity is probably stressful to one degree or another to wild horses,

as well as other interested groups; and (4) invite public review and comment, where appropriate. Here, NPS has erroneously determined that all of the horses are “livestock” and therefore this provision does not apply to its analysis.

⁶ See Bruce Nock, PhD, *Wild Horses—The Stress of Captivity*.

⁷ *Id.* at 5.

⁸ *Id.* at 2.

especially when it begins with the traumatic experience of a gather. It is extremely detrimental to their long-term health and soundness.⁹

Essentially, the stress of capture and captivity can put the horse “on a path of accelerated deterioration,” leading to long-term physical and mental health problems and a shortened life expectancy.¹⁰ Likewise, the ongoing trauma experienced by horses after the initial roundup extends to both the captive horses and those horses (if any) that were left behind. NPS cannot sweep these impacts under the rug.

Even more disturbing is the proposal to use helicopters to chase, and ultimately shoot and kill, horses. Again, considering that there are so few horses within MVNP, and that the horses do not pose any imminent danger to humans, lethal reduction methods are both unethical and unnecessary.

Finally, NPS should not ignore the positive impacts of wild horses. Studies demonstrate that horses support healthy ecosystems on public land if given sufficient habitat and left alone.¹¹ For example, horses help spread plant seeds over large areas where they roam. Horses do not decompose the vegetation they ingest as thoroughly as ruminant grazers, such as cattle or sheep, which allows the seeds of many plant species to pass through their digestive tract intact into the soil that the wild horses fertilize by their droppings. Moreover, other animals depend on horses to make certain resources, such as water, available. For example, in the winter, horses break through ice to expose water to a variety of species. Horses also help to prevent catastrophic fires and help to build more moisture-retaining soils. Soil moisture dampens out incipient fires and makes the air coating the earth moister. “Horses and burros are much better equipped for this increasingly important service to all the life community, including man, than ruminant grazers, particularly domesticated ones. Indeed, these equids refill a significant empty niche within the North American ecosystem.”¹²

Under NEPA, NPS is required to rigorously explore and objectively evaluate all reasonable alternatives. Therefore, NPS must consider additional alternatives that do not simply resort to removing all of the horses within MVNP. Additionally, NPS should include alternatives that embrace protecting the horses. Notably, NPS regulations specifically state that NPS **may** impound or dispose of livestock found on park lands.¹³ NPS is not required to do so. Although Friends of Animals does not agree with NPS that the horses within MVNP are “livestock,” NPS is obligated under NEPA to consider alternatives that do not include impounding or disposing of horses.

⁹ *Id.* at 8-11.

¹⁰ *Id.* at 2.

¹¹ *See, e.g.,* Craig Downer, *How Wild Horses & Burros Help North American Ecosystems*.

¹² *Id.*

¹³ *See* 36 C.F.R. § 2.60(c).

Additionally, NPS should not include any lethal reduction alternatives in any case. Notably, the EA indicates that visitors enjoy viewing wild horses in MVNP, and that horses enhance the visitors' experience and likely bring more visitors to the park. Therefore, an excellent option may be to allow horses to remain in this rich and vibrant area rather than subjecting them to a life a captivity.

Thank you for the opportunity to comment. Please notify me of further actions impacting wild horses in Mesa Verde National Park and feel free to contact me if you have any questions regarding these comments.

Sincerely,

Courtney McVean

Courtney McVean

Associate Attorney

Friends of Animals

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