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Comments on Custer National Forest Plan

Custer Gallatin National Forest
Attn: Forest Plan Revision Team
P.O. Box 130, (10 E Babcock)
Bozeman, MT 59771

June 6, 2019

Dear Forest Plan Revision Team,

On behalf of The Cloud Foundation (TCF), a 501(c)3 non-profit and our hundreds of thousands of supporters throughout the United States, we would like to thank you for the opportunity to comment on the Custer National Forest Plan.

The Cloud Foundation proposes an expansion of The PMWHR into the Custer National Forest. A map of the expansion as proposed by The Cloud Foundation can be found in the appendix (#1).

1. Genetic viability of the Pryor Wild Horses

The current population of the PMWHR is too small to support a healthy, genetically viable wild horse population. According to Singer et al. (2000), the minimum viable population (hereafter MVP) of the Pryor Mountain Wild Horse Range is around 150 to 200 animals. However, Singer et

al. state that wherever possible, a larger population is desirable. [1] The Pryor Mountain Wild horses might be showing beginning signs of inbreeding, according to the Gus Cothran report on the PMWHR genetic viability (2013).[2] This seems to imply that in the PMWHR, the population should be elevated to 200 horses, rather than 150, to maintain a healthy herd. To prevent further inbreeding, and the loss of incredibly unique and historic bloodlines, the population needs to grow by approximately 50 adult individuals. The only feasible, environmentally sustainable and cost-efficient way to foster this growth, is by expanding the range.

Exhibit 1.1 = Endangered genetic viability within the Pryor herd. *E.G. Cothran. 2013. Genetic Analysis of the Pryor Mountains Wild horse Range, MT. Texas A&M University.* (appendix #2)

According to reports of prof. E.G. Cothran: "*He* [genetic variable] is slightly higher than *Ho* [genetic variable] which could indicate the very beginning of evidence of inbreeding." (pp. 4) The summary of the report then states: "Current variability levels are high enough that no immediate action is needed. However, there has been a general trend for a decline in variations levels of the herd. If the trend continues the variability levels of the herd could drop below the feral average within the next five to ten years. **The best way to maintain current levels would be to increase population size if range conditions allow.**" (pp. 4-5, emphasis added) Note: this report was written in 2013. Six years later, and with no further actions taken, we believe action needs to be taken soon to avoid the prospect that prof. Cothran cites.

[1] Singer et al. 2000. A demographic Analysis, Group Dynamics, and Genetic Effective Number in the Pryor Mountain Wild Horse Population. 1992-1997. pp.73-89. In Singer and Schoenecker (eds.): Managers' Summary – Ecological studies of the Pryor Mountain Wild Horse Range 1992-1997. U.S. Geological Survey, Midcontinent Ecological Science Center, Fort Collins, CO.

[2] Cothran. 2013. Genetic Analysis of the Pryor Mountains Wild horse Range, MT. *Department of Veterinary Integrative Bioscience. Texas A&M University.* pp. 4.

Exhibit 1.2 = Population growth is desired, and expansion is a suitable option. *Wockner et al. 2013. Habitat Suitability Model for Bighorn Sheep and Wild Horses in Bighorn Canyon and the Pryor Mountain Wild Horse Range.* (appendix #3)

Wockner et al. state: "However, minimum goals for genetic viability in the Pryor Mountain wild horses (Ne > 50) require that at least 160 animals be present on the range (Singer et al. 2000). Since the Ne > 50 goal is set for the breeding of domestic animals, and since the vagaries of drought, severe winters, predation, and other stochastic events cause stress in wild animals, larger goals for Ne (e.g. Ne > 100) for wild horses are even more desirable [which would be at least 200 horses] (USDI, BLM 1999; Gross 2000). Expanding the area of the wild horse range is one option, but the prospects for expanding the range do not appear to be great (L. Coates-Markle, BLM, pers. comm.) A second option would be to increase the amounts of useable habitat for horses on the existing range. One goal of this modeling effort was to use GIS-based habitat analyses and ground-truthing to determine why wild horses are not using some areas of the range, and to explore the potential for making some of these areas useable."(pp. 2) We propose the expansion of the range is cost-efficient, feasible, time-efficient, and sustainable.

Exhibit 1.3 = Forage availability does not allow for population growth. *R. Hall. 1972. Wild Horse Biology and Alternatives for Management, Pryor Mountain Horse Range. Bureau of Land Management.* (appendix #4)

In Ron Hall's 1972 analysis of the Pryor Mountain Wild Horse Range, he states: "Range trend has been sharply downward for several years. The 120-130 horses presently on the range are too many for the available forage." (pp. 9) According to Hall, adding territory would have two advantages: "(1) It would give the horses a better opportunity to express behavioral traits (territorial establishments) that have been denied to them under the crowded conditions prevalent on the range and (2) additional forage would be made

available." (pp. 98) After this was stated by Hall, the range was expanded into the Forest Service lands. However, the area that has been added has not provided sufficient forage to bring the population up to a genetically viable number.

2. Historical Range and the interpretation of the Act

Previous efforts to expand the range have been rejected because there was no sufficient evidence that the wild horses used the suggested area (west into Custer National Forest) in 1971, during the time of the act (December). PL-95-195 states: "….and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system." Since the act doesn't seem to specify "presently", Forest Service has interpreted it as 1971, during the time of the act (December). However, like most other wildlife species, horses use areas seasonally. Some areas get snowed in during winter and become inaccessible. Other areas are simply too dry in summer. Thus, Forest Service's interpretation of the act is not feasible, nor does it align with the intention of the act: theoretically, the interpretation of the Forest Service excludes all summer, spring and fall ranges of the horses from being considered for protection. If this indeed was the intention of the act, wild horses should only have access to their winter ranges, which would rapidly lead to the extinction of wild horses in the United States due to the lack of 3/4th of their habitat.

The suggested area in the PMWHR is an exclusive summer range and would have been inaccessible and unattractive to the horses during the winter of 1971. Several areas in the PMWHR are almost exclusively used during the summer, like Penn's Cabin, Upper Mystic-Cave and Little Ice Cave. However, all of these areas are part of the PMWHR, even though the horses were most likely not there during winter, 1971.

In addition, the Forest Service has mentioned section 1339 of the Act, "Limitation of Authority," which states "nothing in this act shall be construed to authorize the secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist."

According to the Cambridge Dictionary, 'relocating' means, "to move to a new place". Thus, creating new habitat by expanding the range without directly interacting with the wild horses does not mean 'relocating' and does not fall outside of the Forest Service Authority.

In conclusion: the only possible interpretation of the act that aligns with its intention is therefore January 1st to December 31st, 1971, or December 1st, 1971 to December 31st, 1972. However, one must take into consideration that it is very likely that if horses used a specific area in both 1970, and 1972, they also used it in 1971. In addition to this, if specific areas have not been surveyed in 1971, it is impossible to know if they were there. Therefore, to accurately identify the home range of the Pryor mountain wild horses, we must look for surveys that were conducted prior to or after 1971, during the time of the act. After re-evaluating old evidence, and collecting new evidence, we believe there is proof that horses roamed undesignated Forest Service lands during 1970/1971/1972.

> **Exhibit 2.1 = Horses roamed undesignated Forest Service area in 1971.** *Ron Hall's email to Patricia M. Fazio.* (appendix #5)
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> In an email to Patricia Fazio, Ron Hall indicated that "There were flights on the Pryor Mountains both **prior and subsequent** to PL 92-195. Horse use was present on the old "Mystic Allotment" or Herman Kruger Allotment on the top of the mountain. In addition, horses regularly used the Lost Water area on the Forest Service. The area over towards the Dryhead Overlook was not used much by horses **but there was an occasional horse in these areas on top of the mountain**."
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> The flights that Ron Hall is referring to were conducted in 1971. According to Singer et al. (2000), "The population was much larger prior to 1971 (n=270 horses)". Singer et al. (2000) then state that in the period after 1971 to 1986, "Management removals maintained the herd at 120-150 horses during most of this period." (pp.76)[3] According to

[3] Singer et al (2000), pp. 76.

the Hall survey (1972), Hall counted “120-130 horses” (pp. 9). Assuming he did not miss as many as 150 horses, this indicates that the flights could not have been conducted in 1970, since the population was significantly larger prior to 1971, nor could the flights have been conducted after 1971, given Hall’s statement that flights were conducted “prior and subsequent” to the Act.

In conclusion: Ron Hall saw occasional horses over toward the Dryhead Overlook and in “these areas on top of the mountain” in 1971. This confirms the presence of wild horses in undesignated Forest Service area in 1971 and enables the Forest Service to expand the PMWHR into this area.

Exhibit 2.2 = Horses roamed undesignated Forest Service area in 1971. *Letter by Gail Tillett Good.* (appendix #6)

This letter was used in previous efforts to expand the horse range. The Forest Service has not found this information supportive because it is “a 35-year-old memory”. Forest service declared it ‘anecdotal’ information. However, Gail Tillett Good is a valuable and trustworthy witness. Her family has been living in this area for generations. They know the horses, the lands, the creeks and the mountains like no one else. The Pryor Mountain Wild Horse Range is her home. And one does not forget their home. In addition, the description of the event is so detailed and precise, that it is unlikely Gail ‘s memory is mistaken or false. We believe this information needs to be taken seriously and not to be set aside as ‘anecdotal’.

Gail describes that she rode horses to round up livestock on “both East and West Pryor Mountain on surrounding foothills in 1969, 1970, 1971, 1972. Before, after and during those years I have seen wild horses on Commissary ridge, Tony Island, Ice Cave Ridge (Big Ice Cave), Crooked Creek and Wyoming Creek. Above the road at Demijohn Hollow, the dark brown stallion I call “My Shadow” or “Shadow” ran this area with his little band of

about 14……. Additional places I have seen wild horses are Dry Head Overlook, the Ranger Station of top, a patch of timber called "Ma Strong's Timber Patch". Tie Flat, Head of Crooked Creek, Tibb's Hollow above the road, Wyoming Creek, Camp Wyoming, in the timber above Camp Wyoming Creek and Second Springs, below the road at Demijohn Hollow, and the upper end of Demijohn Flat and on top of West Pryor and in the foothills around West Pryor on Joe Good's BLM permit. Yes, I have seen wild mustangs from 1969 to 1971 in all the places just described by me, as well as in the foothills around East Pryor Mountain and as far north as Caroline Lockhart' Ranch, Joe Smith's, and Dead Man."

Exhibit 2.3 = Horses roamed undesignated Forest Service area in 1970. *Hope Ryden's picture and statement (location identified by Gail Tillett Good).* (appendix #7)

This photograph was taken by Hope Ryden in June 1970, who was a wildlife biologists and National Geographic journalist. The picture has been identified by Gail Tillett Good as being taken on Commissary Ridge and has been analyzed by Matthew Dillon. Dillon stated that on the picture, sagebrush is visible and Big (West) Pryor Mountain is seen in the back. This combination of sagebrush and views of Big (West) Pryor Mountain can only be on either Commissary Ridge, or by Big Ice Cave, both in undesignated Forest Service areas. In addition, Hope Ryden has complemented the picture with a statement. She writes the following: "Over 33 years that I have followed and photographed the herd, I have seen many horses on the very section of the Forest Service land now in dispute. Clearly, the horses have made long and important use of that part of the mountain." Although the photograph is not from 1971, it seems evident that the horses used this area during the period in question, if they were there the year before.

Exhibit 2.4 = Historic migratory trails of the horses. *Linda Coates-Markle (1998) Record of Buck n' Pole Fence Repair Activity (administrative boundary) on PMWHR/Custer National Forest.* (appendix #8)

According to a report of the Buck and Pole fence repair in August 10th, 1998 "The horses had broken down two sections of the fence, just east of the cattle guard. The sections of fence fell in line with **historic horse migratory trails**." Note that this is outside the current PMWHR, and into the proposed area. Also note that this was in the summer, suggesting that they used this area as a summer range and that it would have been unlikely that the horses used this area during the time of the act (1971, December). It is certain that horses roamed this area before, during and after 1971. At the time this report was written, some of the horses were likely not accustomed to utilizing areas other than the Forest Service. This would explain why they broke the fence. The report also records several bands using undesignated forest service area. The report then goes on to continue: "The Pryor herd has ingrained behavioral tendencies to extend their distribution onto Forest Service lands generally about August through September of each year. This coincides with forage maturation and moderate to heavy grazing concentration on the highest elevation on the designated range."

Exhibit 2.5 = Traditional use of Tony Island by horses. *BLM. 1974. Pryor Mountain Complex. Land Use Decisions*. (appendix #9)

In this document, several suggestions are given for possible range expansion. On page 21, it states the following: "He [anonymous rancher] claimed to have watched the horses periodically increase to far greater numbers in the past. **His points had considerable merit.** As an alternative, he recommended the expansion of horse **use into Tony Island** which was part of the old Pryor Spur Allotment on the Custer National Forest. **He considered Tony Island a traditional use area for wild horses.**" There is no reason not to believe the horses were using this area in 1971.

Exhibit 2.6 = Historic use of Dryhead Overlook and Tony Island Spring. *Forest Service. (1980). Wild Horse Use on National Forest Lands in Pryors. An Analysis of the current situation; possible management alternatives; and, a recommended course of action.* (appendix #10)

This report, written in 1980, identifies the presence of wild horses on Forest Service lands. On page 3, it states the following: “The 4,200 plus acres of NFS lands in question are not the only NFS lands presently being used by wild horses. Field review in 1978 and 1979 indicated horse use well west of the trial area. The photo on page 4 shows five horses in the furrowed area north and west of the formal Range and north of the NFS lands being considered for addition to the formal Range. Horse use was noted as far west at the catchment basin at Dryhead Overlook and at Tony Island Spring.”

Exhibit 2.7 = Horses roamed undesignated Forest Service area in the early 1970’s. *Letter of John Nickle (Pryor Mountain Wild Mustang Center, Lovell) to Linda Coates-Markle.* (appendix #11)

John and Linda Nickle have been observing the Pryor Mountain wild horses for almost 60 years and know the area as no other. In a letter to Linda Coates-Markle he writes the following: “In the late 60’s and early 70’s, Lynda and I observed some of the herd on the west Pryor, on top of the southern end. I clearly recall 2 separate bands, on had 6-8 horses with a black stud, while the other band had 4-5 horses with the first blue roan I remember seeing. Until then I hadn’t realized there were still horses from the herd surviving outside of the established range boundary.” This statement indicates that horses used areas in the early 1970’s far to the West of the range boundary, including the proposed expansion area.

Exhibit 2.8 = Horses roamed undesignated Forest Service areas in 1971. *Interview with Reverend Floyd Schweiger.* (appendix #12)

In an interview with Reverend Floyd Schweiger, it became evident that horses used, amongst other areas, Tony Island. To the question “In 1968 the range was created and in 1971 the Wild Horse and Burro Act was passed. During that period specifically, were the

horses present atop the horse range and into the area known as Tony Island?", he answered: "They were always up there". He then refers to Bess Tillet, who also recalled seeing around 15 horses west of the Buck and Pole fence, and to Herman Krueger, "And he says too, that the horses he knew of that existed outside and west of that pole fence where always horses that were in the vicinity of Tony's Island." He continues to talk about the water source in Tony Island, a spring, and that horses were present in areas where water was.

Combined, these statements make a strong body of evidence of the presence of horses in the proposed expansion area. We would like to thank you again for the opportunity to comment, and we urge the USFS to take our comments in consideration. The Cloud Foundation is convinced that expanding the Pryor Mountain Wild Horse Range into the proposed area will not only benefit the horses, but the ecosystem as a whole, and the local economy as well. We look forward to your response.

Kind Regards,
The Cloud Foundation

References

Cothran, E.G. 2013. Genetic Analysis of the Pryor Mountains Wild horse Range, MT. *Department of Veterinary Integrative Bioscience. Texas A&M University.*

Singer et al. 2000. A demographic Analysis, Group Dynamics, and Genetic Effective Number in the Pryor Mountain Wild Horse Population. 1992-1997. pp.73-89. In Singer and Schoenecker (eds.): Managers' Summary – Ecological studies of the Pryor Mountain Wild Horse Range 1992-1997. U.S. Geological Survey, Midcontinent Ecological Science Center, Fort Collins, CO.