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December 15, 2006

BY ELECTRONIC AND REGULAR MAIL

Mr. Carl Zimmerman
Assateague Island National Seashore
7206 National Seashore Lane
Berlin, MD 21811

Dear Mr. Zimmerman:

On behalf of the nationwide membership of the Animal Welfare Institute (AWI), I submit the following scoping comments on the pending Environmental Assessment on Feral Horse Management at Assateague Island National Seashore (Draft EA). Prior to preparing this comment letter, I reviewed the scoping brochure available from the Assateague Island National Seashore (hereafter "ASIS") website.

As an initial matter, despite conceding that the horses of ASIS are its "most well known natural resource" and that "thousands of visitors are attracted to Assateague each year for the opportunity to view free-roaming horses in a natural barrier island setting," ASIS and the National Park Service (NPS) failed to publish notice of its intent to prepare a Draft EA in the Federal Register. Given the importance of this herd as a component of the ecology and visitor experience of ASIS, the development of a new management plan that may involve the physical removal of horses from the island warrants official publication of the NPS's intent in the Federal Register. By doing so, the NPS would have alerted more potentially interested parties to its proposal thereby encouraging greater public participation in its decision-making process.

In addition, the NPS/ASIS decision to subject this proposed action to analysis in an EA instead of an environmental impact statement (EIS) is curious since it is unclear if the NPS/ASIS can or will provide the level of analysis in its Draft EA that this issue clearly requires. Indeed, given the significance of the ASIS horses in terms of their history, ecology, scientific value, cultural significance, aesthetics, and importance to the ASIS visitor experience, there are compelling reasons to evaluate the impacts of this proposal in an EIS. Admittedly, an EA can be used to determine if an EIS is necessary. In this case, particularly since this proposal will meet or exceed many of the significance factors

identified in the Council on Environmental Quality implementing regulations for the National Environmental Policy Act (NEPA), the NPS should forego preparation of an EA in favor of a more comprehensive analysis in an EIS.

In regard to the issues to be consider in the Draft EA, in order to meet NPS mandates and to provide the level of analysis required by NEPA, NPS/ASIS must include in its pending Draft EA the following information/analyses:

1. A comprehensive review of NPS statutes, regulations, and policies regarding wildlife and wildlands management. This review must include information on the historical and current interpretation of the natural regulation mandate and an analysis of court opinions relevant to national park management and its relevance to the ASIS horses given their status as a "desirable feral species." Because of this unique designation, the Draft EA must clearly delineate which laws, regulations, and policies are relevant to this species and whether the NPS has discretion in the management of this species that it does not have in the management of a native wildlife species.

2. A comprehensive review of the history of the ASIS horses and their management. This review must include the alleged origins of these horses, how the horses were managed prior to the creation of ASIS or the Chincoteague National Wildlife Refuge, and how the construction of a fence to separate the two horse herds impacted the ecology and biology of the horses and the island habitat. In addition, the NPS must disclose the history of the fence separating the Chincoteague and ASIS horses and whether horse population are able to interact as a result of horses jumping over, going under, going around, or otherwise traversing the fence if or when the fence is damaged as a result of a storm, vandalism, or other event. If any such ingress or egress to the population occurs, the significance of such events to the ecology, population dynamics, and genetics of the herd must be disclosed. Finally, the NPS/ASIS must include a full analysis of more recent management actions taken to reduce the size of the ASIS horse population including, but not limited, to the ongoing ASIS immunocontraception program. The NPS must fully disclose the history of the immunocontraception program, its methodologies, its results (including all successes and any deficiencies in the program), and its potential to provide a non-lethal solution to the alleged concern associated with wild horse damage to the island ecosystem. Ideally, if it hasn't already done so, the NPS/ASIS should develop a credible model to evaluate the short and long-term impact of the immunocontraception program on the horse population size, productivity, survival and to compare and contrast the impact of other potential management alternatives using the model.

3. Full disclosure of all federally and state listed threatened and endangered species inhabiting ASIS, and the status of each population within ASIS, regionally and nationally. In addition, the Draft EA must provide indisputable evidence, if available, documenting any alleged horse impacts on those species while also disclosing any other natural or anthropogenic factors that could be affecting the survival, abundance, and/or reproduction of those species. Such factors may include impacts from ASIS visitors thereby requiring an analysis of visitation trends, visitor use of the island, and the

potential inadvertent or intentional impact of visitors on such imperiled species as a result of their use of the island (i.e., hiking, picnicking, bird watching, wildlife observation). Climatic factors such as precipitation trends, extreme weather events (i.e., drought, extreme cold), and the frequency and severity of storms must also be disclosed along with an analysis of the impact of such events on the imperiled species. It is particularly important that the NPS document that the alleged impacts to the imperiled species are, in fact, attributable to horses and not the result of other factors. In addition, as the NPS is aware, it will have to subject its proposed horse management plan to the required Section 7 consultation under the Endangered Species Act.

4. A full and objective evaluation of the potential applicability of surgical and non-surgical (i.e. immunocontraceptives) techniques to reduce or alter the reproductive potential of the park's horse population. This evaluation must include a detailed discussion of any and all immunocontraceptives that have been used on horses (e.g. porcine zona pellucida or PZP, gonadotropin releasing hormone (GnRH), leuteinizing hormone (LH), follicle stimulating hormone (FSH)), the efficacy, and their safety. The analysis must cite to credible scientific studies documenting the potential impacts, beneficial and adverse, of any sterilization program (surgical or non-surgical) evaluated in the Plan and EIS.

In addition to the past and potential role of immunocontraception in managing this horse population, the NPS/ASIS must disclose and evaluate other non-lethal management strategies (e.g. fencing, landscape management, visitor education) to mitigate, prevent, or eliminate alleged horse impacts and/or horse-human conflicts on ASIS. The NPS/ASIS must specify that it intends to use and evaluate all non-lethal strategies to address the alleged impacts of horses on ASIS before considering strategies involving the direct removal (by capture or other means) of horses from the ASIS. In the event that the NPS/ASIS even contemplates any type of lethal removal program for one or more horses, it must note that existing NPS statutes place significant restrictions on the use of lethal control as a management strategy for any animal, including presumably a "desirable feral species."

5. A comprehensive evaluation of the biology and ecology of horses on ASIS. This evaluation must include information about the productivity, survival, mortality factors, age and sex structure of the population, habitat use patterns, distribution, movement patterns, and forage preferences for the horses along with information about the impact of ASIS visitors on horses. All relevant data on horse-human conflicts must be disclosed along with NPS/ASIS regulations and policies regarding visitor interaction with the horses, educational efforts employed by ASIS to minimize adverse interactions, and law enforcement data reflecting citations or fines levied against visitors who violate ASIS rules/policies intended to protect horses and/or prevent human-horse conflicts.

The NPS/ASIS must also disclose explicit data documenting the alleged adverse impacts of horse grazing on the island's native flora and, if applicable, fauna. This requires both the disclosure of ecological and biological information about each allegedly affected species and, if available, disclosure of long-term vegetation productivity, abundance, and

composition data. If such data are not available, the NPS/ASIS must provide a rational explanation for how it can attribute alleged impacts to native fauna to the grazing impacts of horses. Moreover, to ensure that the impacts are, in fact, attributable to horses either in whole or in part, the NPS/ASIS must also disclose and evaluate the impact of other natural and anthropogenic factors on native flora and fauna. In particular, climatic (i.e. precipitation, ambient temperature) data and extreme climatic events must be evaluated in regard to their impact on native flora and fauna in comparison to the impacts allegedly attributable to horses. Such data is essential if the NPS/ASIS intends to demonstrate that its current management efforts are warranted and, even more critical, if the NPS/ASIS intends to pursue a more aggressive or rapid horse population management strategy.

A scientifically credible model must be developed to predict the impact of management alternatives on the horse population and island plant survival, abundance, composition, and restoration. The model should also include climatic variables to emulate, to the extent possible, the natural conditions found on ASIS. This will allow, if done correctly, interested stakeholders to compare and contrast the short and long-term impacts of the various management options to better assess the difference in impacts between rapid reduction of the horse population versus a longer term reduction strategy.

6. As required by NEPA, the NPS/ASIS must identify and evaluate a reasonable range of alternatives. Such alternatives should evaluate different options for achieving the NPS objectives or goals are for the management of the ASIS horse population. At least one of the alternatives must be a no-action alternative. The no-action alternative can either be a true no-action strategy where no efforts, including immunocontraception, are taken to management the horses and/or a status-quo alternative which maintains current management strategies.

7. The NPS/ASIS must provide a rational explanation for the need for action to manage the ASIS horses. This is particularly true considering that the NPS/ASIS has been managing the horse population with the use of immunocontraceptives for a number of years and since this program has successfully reduced the horse population size from 175 to 138 with a strong likelihood that the population will be reduced to 120 horses within 2 years. Considering that the Population Viability and Habitat Assessment report prepared on the ASIS horses identifies a population objective of 80-100 horses and predicts that the ASIS population would be reduced, with existing management strategies, to 100 within 5 years, should the NPS/ASIS believe that the population must be reduced more rapidly it must provide a rational explanation and data to justify this position.

Moreover, this analysis must include a detailed short and long-term cost benefit analysis comparing and contrasting the cost of the no-action or status quo alternatives with the cost of any other horse management strategy evaluated in the Draft NEPA document. Such an analysis must be comprehensive and consider all costs of any horse management strategy including the impact on the legal and social precedent set by such a decision, the impact on visitors to ASIS, the impact to the value of the horse population (i.e. scientific, ecological, cultural, aesthetic), and the impact to the values of the park, including the

existence value. A contingent valuation methodology or some similar economic impact measurement tool must be used to perform this analysis. It must be noted, however, that because ASIS is a federal park supported by federal tax dollars, cost must not be used as the sole basis for rejecting an alternative that may best protect ASIS, its wildlife, and the preservation-based statutes, regulations, and policies of the NPS.

Finally, AWI strongly encourages the NPS/ASIS to make available all records (e.g. correspondence, memoranda, studies, e-mails, reports, documents, data) that it intends to rely on in the Draft NEPA document. This will enable interested parties to easily access and evaluate all such records in order to promote and enhance the public's ability to both evaluate the evidence being used by the NPS and to produce informed and substantive public comments in response to the Draft NEPA document. The process is likely to be controversial, therefore such a website would also provide a level of much-needed transparency.

Thank you for considering these scoping comments. Please send future notifications, correspondence, and environmental documents on this matter to D.J. Schubert, 3121-D Fire Road, PMB 327, Egg Harbor Township, NJ 08234.

Sincerely,

D.J. Schubert
Wildlife Biologist