

Forest Order Number 04-17-13-10
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Humboldt-Toiyabe National Forest
Spring Mountains National Recreation Area

CLOSURE ORDER

A. PROHIBITIONS

Pursuant to Title 36 Code of Federal Regulations (CFR), 261.50(a) and (b), the following acts are prohibited within the area known as Spring Mountains National Recreation Area, Humboldt-Toiyabe National Forest as described in this order, beginning on June 1, 2013 and continuing each year until rescinded.

1. Entering the area while in possession of hay, pelletized hay, straw, mulch, grain, salt, mineral supplement or other livestock feed for the purpose of feeding, attracting, or luring wild horses and burros. 36 CFR 261.53(a),(b), (e), and (f), 261.58(t) and (cc).
2. Entering the area while in possession of any plant materials, food or refuse for the purpose of feeding, attracting, or luring in wild horses and burros. [CFR 261.53(t)(cc).

B. EXEMPTIONS

Pursuant to 36 CFR 261.50(e), each of the following persons is exempt from this order:

1. Persons transporting hay, pelletized hay, straw, mulch, grain, salt, mineral supplement or other livestock feed on designated roads or trails solely for the purpose of delivery to private property.
2. Persons possessing or transporting hay, pelletized hay, straw, mulch, grain, salt, mineral supplement, or other livestock feed solely for the feeding of pack stock that is being used in conjunction with commercial or non-commercial recreational activities on National Forest System land.
3. Persons with a permit or contract authorization specifically exempting them from the effect of this Order.
4. Any Federal, State, or local government officer placing baits or attractants for the purpose of trapping or gathering wild horses and/or burros for management or research purposes as part of their official duties under pursuant to federal or state law and regulation.
5. Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

C. AREA DESCRIBED

The area designated as the Spring Mountains National Recreation Area, Humboldt-Toiyabe National Forest, Clark and Nye Counties, Nevada as show on Exhibit A, Map.

D. PURPOSE

The purpose of this order is to ensure public safety, provide protection of wild horses and burros, and to protect natural resources and public properties on National Forest System land. The need for this prohibition is to: (1) reduce the potential for wild horse or burro - vehicle collisions along public roads; and (2) prevent detriment to normal wild horse and burro behavior patterns including feeding, watering, resting and breeding. This closure operates in conjunction with the following measures to prohibit unauthorized feeding and harassment of wild horses and burros:

1. The BLM currently prohibits the feeding of wild horses and burros within the Spring Mountain WHB Complex under 43 CFR 8365.1-6 (3.8) (b)(4), and has signed public roadways within Herd Management Areas (HMAs) under their jurisdiction.
2. Nevada State law also prohibits the feeding of any estray or feral livestock on public or private lands (NRS 569.040).
3. The general prohibition of 36 CFR 261.10(a), which prohibits unauthorized construction, placement, or maintenance of water troughs or other storage structures on National Forest System lands.
4. The general prohibition of 36 CFR 261.23(a)(b) and Criminal Code 16 USC 1338 which prohibit willfully removing or attempting to remove a wild free-roaming horse or burro from public lands unless authorized by law or regulation, and causing or allowing inhumane treatment or malicious harassment of a wild horse or burro.
5. Forest Order 04-00-097, Weed Free Hay, which requires that all non-pelletized hay, straw or mulch on National Forest System lands be tagged or marked as weed free, or have evidence of weed free certification.

E. IMPLEMENTATION

1. Exhibit A. Spring Mountains National Recreation Area Wild Horse and Burro Special Order – Feeding Prohibition map is attached and incorporated as part of this ORDER.
2. This Special Order will be in effect when signed and shall remain in effect until rescinded.

F. DEFINITIONS

Attracting: means using any supplemental food, water, refuge, salt, nutrient substances, live decoy, artificial decoy, scent, odor, pheromones, and flags, with intent to lure wild horses or burros.

Baiting: means the intentional direct or indirect placing, exposing, depositing, distributing or scattering of supplemental food, or nutrient substances to attract wild horses or burros to enhance trapping or viewing.

Feral Livestock: means any formerly domesticated livestock or progeny which have become wild and are running upon public or private lands in the State of Nevada. The term does not include horses or burros subject to the jurisdiction of the Federal Government pursuant to the Wild Free-Roaming horses and burros Act, 16 USC 1331-1340 (NRS 569.008).

Malicious Harassment: means any intentional act demonstrating deliberate disregard for the well-being of wild free-roaming horses and burros and which creates a likelihood of injury or is detrimental to normal behavior pattern of wild free-roaming horses or burros including feeding, watering, resting, and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping, or attempting to gather wild free-roaming horses or burros. It does not apply to activities conducted by or on behalf of the Forest Service or the Bureau of Land Management in implementation or performance of duties and responsibilities under the Act [36 CFR 222.20 (b)(8)].

Wild Free-Roaming Horses and Burros: mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat, but does not include any horse or burro introduced onto the National Forest System on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Unbranded, claimed horses and burros for which the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above. [36 CFR 222.20 (b)(13)].

Violation of these prohibitions is punishable as a misdemeanor, by a fine of not more than \$2,000.00, or imprisonment of not more than one year, or both [Title 16 USC 1338(6)(b), 18 USC 3401(a)].

Done in Sparks, Nevada this 31st day of May, 2013



for _____
WILLIAM A. DUNKELBERGER
Forest Supervisor
Humboldt-Toiyabe National Forest

Exhibit A. Spring Mountains National Recreation Area
 Wild Horse & Burro Feeding Prohibition, Forest Order No. 04-17-13-10

