National Park Service
U.S. Department of the Interior

Superintendent's Compendium 2014

Of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority

Fort Union National Monument
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Submitted By:

/s/ Regina Carrico 3/26/14
Regina Carrico, Chief Law Enforcement Officer **Date**

Approved By:

4/8/14
Charles Strickfaden, Superintendent **Date**

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of Fort Union National Monument. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, and Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the monument, and the following closures are established for all or a portion of the monument to all public use or to a certain use or activity:

Public Access and Visiting Hours:

- Public access to Fort Union National Monument is limited to the monument entrance road, parking lot, visitor center, the interpretive trail, picnic area, or as otherwise posted:
  - Labor Day through Memorial Day, 8:00 a.m. until 4:00 p.m.
  - Memorial Day through Labor Day, 8:00 a.m. until 6:00 p.m.

- Public access to Fort Union National Monument via New Mexico State Highway Rights-of-Way for NM 161 is not limited unless otherwise posted.

- Public access to all other portions of Fort Union National Monument may be provided at designated times by ranger guided tour, special use permit, or upon specific authorization of the Superintendent.

Determination Statement: It is necessary to establish hours that the public may enter an area, in order to protect the natural and cultural resources from resource damage, theft, vandalism and inappropriate group activities. It is also necessary for visitor safety since some of these areas can present hazardous conditions, which become extreme during seasonal variations of weather and daylight. Limited staffing also controls the hours and days of operation. Schedules are set to take advantage of contemporary monument visitor use patterns.

Public Use Limits:

- Motor Vehicle Access

  Motor Vehicle access within Fort Union National Monument is limited to designated parking areas and roadways. Except as defined below, use of motor vehicles such as Segways and motorized scooters are prohibited in all monument areas.

  Determination Statement: It is necessary to establish this public use limit to protect the natural and cultural resources from resource damage, theft, vandalism and inappropriate group activities. It is also necessary for visitor safety since restricted areas can present hazards during seasonal variations of weather and daylight. In addition, use of motor vehicles such as Segways and motorized scooters within the monument are considered inappropriate due to the historic scene and the purposes for which the monument was intended. Restrictions may also help to reduce user conflicts and protect the historic scene.

- Segways, Motorized Scooters and Motorized Wheelchairs

  Segways and motorized scooters, as defined under 36 C.F.R. § 1.4, are motor vehicles. Pursuant to 36 C.F.R. § 1.5(a) and 4.10(a) Segways and motorized scooters are prohibited from all areas within the monument including all monument roads, trails and sidewalks. Motorized wheelchairs are defined separately and are not considered motor vehicles.

  Any monument visitor with a disability is permitted to use a motorized wheelchair, Segway or motorized scooter throughout the monument, including all structures, facilities, monument roads, sidewalks, trails and other surfaces where the general public is allowed access and when such devices are used for the sole purpose of mobility assistance. Use of any mobility assistive device, as outlined above, must also adhere to the following:

  a) No person under 16 years of age may operate a motorized wheelchair, Segway or motorized scooter without direct adult supervision.
  b) A person shall operate any mobility assistive device in a safe and responsible manner so as not to endanger one's self or any other monument visitor.
  c) A person riding any mobility assistive device shall have all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobility assistive device operator must always yield to pedestrians.

  Determination Statement: The Segway is a two-wheeled, gyroscopically stabilized, battery-powered personal transportation device. While Segways and motorized scooters (or similar devices) are not "designed solely for" mobility-impaired persons and thus do not meet the definition of a motorized wheelchair in 36 CFR Section 1.4, some individuals with disabilities use these devices as their means of personal mobility, in lieu of more traditional devices like the wheelchair. As stated in National Park Service (NPS)Management Policies, Section 8.2.4, and described in more detail in Director's Order 42, the NPS is committed to making all reasonable efforts to make its programs, facilities, and services accessible to people with disabilities. The NPS has set a goal of ensuring that all people, including persons with disabilities, have the highest level of accessibility that is reasonable to our programs, facilities, and services in conformance with applicable regulations and standards. Allowing the use of motorized wheelchairs, Segways and motorized scooters in the monument by people with disabilities is part of this effort. In that light, monument managers have determined that the use of motorized wheelchairs, Segways, motorized scooters and similar devices by persons with disabilities is safe and appropriate in all areas of the monument currently open to access by the general public.

- Service Animals

  Service animals, as defined under 28 CFR 36.104, are "any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability". Animals that meet this definition are considered service animals regardless of whether they have been licensed or certified by a State or local government. National Park Service (NPS) regulations codified at 36 CFR 2.15 currently recognize that only "guide dogs for the blind" and "signal dogs for persons with hearing impairments" are exempt from prohibitions on pets.

  Within Fort Union NM, all service animals are exempt from prohibitions on pets and, when accompanying a person with a disability (as defined by Federal law and DOJ regulations), will be allowed wherever visitors or employees are allowed. The superintendent may close an area to all service animals upon an individualized assessment and a written determination that allowance of any domestic animal would pose a direct threat to the health and safety of people or wildlife. Individual service animals may be prohibited from any monument area upon an individualized assessment that the animal's current behavior

poses a direct threat to the health and safety of people or wildlife or when presence of the animal would result in a fundamental alteration to the nature of the monument or monument activities.

Determination Statement: Service animals for persons with disabilities have traditionally been understood to be guide dogs for blind individuals and hearing assistance dogs for persons with hearing impairments. Because these animals provide service for persons with disabilities, they are not considered to be pets and, consequently, are not regulated as pets. Accordingly, they have been allowed to go into areas where pets are traditionally prohibited and are exempt from prohibitions on pets in NPS areas. In 1990, with the passage of the Americans with Disabilities Act (ADA), the Department of Justice (DOJ) expanded the concept of service animals to include those providing a service for individuals with other disabilities. Current NPS regulations (36 CFR 2.15), which recognizes only guide dogs for the blind and signal dogs for the hearing impaired, does not apply to persons with disabilities who rely upon service animals for other purposes.

As stated in National Park Service (NPS)Management Policies, Section 8.2.4, and described in more detail in Director's Order 42, the NPS is committed to making all reasonable efforts to make its programs, facilities, and services accessible to people with disabilities. The NPS has set a goal of ensuring that all people, including persons with disabilities, have the highest level of accessibility that is reasonable to our programs, facilities, and services in conformance with applicable regulations and standards. Allowing the use of all service animals in the monument by people with disabilities is part of this effort. Therefore the definition of service animals has been expanded to be consistent with the DOJ definition in order to allow all service animals accompanying persons with disabilities the same privileges currently provided to guide dogs and hearing assistance dogs. monument managers have determined that the use of service animals by persons with disabilities is generally safe and appropriate in all areas of the monument currently open to access by the general public.

- Fort Union National Monument is closed to public use activities involving sports or other recreation activities not related to the historical themes of the monument. Regulated activities include but are not limited to kite flying, ball games, cycling and Frisbee throwing.

  Determination Statement: It is necessary to establish this public use limit to protect the natural and cultural resources from resource damage. In addition, these types of modern activities in these specific locations are considered inappropriate to the historic scene and the purposes for which the Monument was intended. Restrictions will also help to reduce user conflicts.

- All streams and water impoundments within Fort Union National Monument are closed to all public access.

  Determination Statement: The existing waterways restricted to preserve and protect the sensitive riparian habitat, cultural resources, and to provide for public safety.

- Picnicking is permitted only at the designated picnic area by the visitor center.

  Determination Statement: It is necessary to establish this public use limit to protect natural and cultural resources from resource damage. In addition, this type of activity in most locations open to the public is considered inappropriate to the historic scene and the purposes for which the Monument was intended.

Closures: Except as otherwise provided in this section:

- All portions of Fort Union First Fort Unit are closed to public access. The Monument provides escorted public access to the area through the private property of the Fort Union Ranch. Permission to cross the Ranch must be approved by the Superintendent prior to providing public access.

- Any road, parking area, trail or facility, which is posted as closed by barricades, closed gates or signs are closed to public access.

- Any portion of the monument may be temporarily closed to public access upon determination by the Superintendent that significant hazards to visitor safety may be present. Examples may include but are not limited to the presence of hazardous weather, animals or toxic materials.

Determination Statement: It is necessary to establish these area closures and restrictions in order to protect the natural and cultural resources from resource damage, theft, vandalism and inappropriate group activities. It is also necessary for visitor safety since some of these areas can present hazardous conditions, which become extreme during seasonal variations of weather and daylight.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted:

Motor Vehicles:

- All motor vehicles, commercial and private, on all monument roads, and parking areas within Fort Union National Monument must shut down their engines when not underway.

  The idling of vehicle engines adds unnecessary exhaust fumes to the air and diminishes the enjoyment by visitors of the peace and tranquility of the monument.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

§1.5(d) the following activities related to Public Use Limits:

- Vehicle access to Fort Union National Monument other than on designated parking areas and roadways.
- Public use involving sports or other recreation unrelated to the historical themes of Fort Union National Monument within the ruins.
- Picnicking outside of designated picnic areas.

§2.5(a) Specimen collection (Taking of plants, fish, wildlife, rocks or minerals (etc.)

§2.10(a) Camping

The monument is managed for day use and no camping is allowed, however camping facilities are available nearby. When selected special events or other authorized activities include camping, it will be specified in a permit.

§2.12 Audio Disturbances:

(a)(2) Operating a chain saw in developed areas
(a)(3) Operation of any type of portable motor or engine, or device powered by a portable Motor or engine in non-developed areas
(a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51

§2.17 Aircraft & Air Delivery:

(a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means
(c)(1) Removal of a downed aircraft

§2.37 Soliciting or demanding gifts, money goods or services (Pursuant to the terms and conditions of a permit issued under §2.50, §2.51 or §2.52)

§2.38 (b) Explosives: Use or possession of explosive or fireworks

§2.50(a) Conducting a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony or similar event

§2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views for groups of 26 or more individuals.

§2.52(c) Sale or distribution of printed matter that is not solely commercial advertising

§2.60(b) Livestock use

§2.61(a) Residing on monument lands

§2.62 Memorialization:

(a) Erection of monuments requires approval from Director
(b) Scattering ashes from human cremation

§5.1 Advertisements - (Display, posting or distribution.)

§5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).

§5.5 Commercial Photography/Filming:

(a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television
(b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

§5.6(c) Use of commercial vehicles on monument area roads (The superintendent shall issue a permit to access private lands within or adjacent to the monument when access is otherwise not available)

For more information on permit requirements or application procedures, contact: Superintendent, Fort Union National Monument, P.O. Box 127, Watrous, New Mexico 87553 or call 505-425-8025.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(5) The following conditions are in effect for walking, climbing, entering, ascending or traversing the listed archeological or cultural resource, monuments or statues:

- Pedestrian use of any archeological or cultural resource within Fort Union National Monument is restricted to the interpretive trail and established roadways and parking lots unless on an authorized ranger guided tour.

(b) Hiking or pedestrian traffic is restricted to designated trails, roads, parking areas or walkways as listed in Section 1.5 of this document.

(c)(1), (c) (2) The following fruits, nuts, berries or unoccupied seashells may be gathered by hand for personal use or consumption, in accordance with the noted size, quantity, collection sites and/or use or consumption restrictions:

- Pinion Pine nuts may be hand gathered for personal, non-commercial use and consumption in the monument only.
- Breaking branches, removing cones or otherwise injuring pines or other plants is prohibited.
- Use of ladders is prohibited.

The gathering of Pinion Pine Nuts is a traditional cultural activity and has been important to the local people for millennia. Harvesting is popular today as a form of recreation and was in the past a focus of important social significance. Allowing limited harvesting within open areas of Fort Union National Monument allows local people to continue their traditions while restrictions placed on the activity are meant to minimize the impact to the monument and assure that plenty of nuts are available for wildlife.

36 CFR §2.11 – PICNICKING

Certain areas have been closed to picnicking and are listed in section 1.5(a) (1) "Public Use Limits".

36 CFR §2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

- At established picnic areas using grills or stoves with containerized fuels
- At other sites during authorized interpretive functions using containers/receptacles appropriate to the function

36 CFR §2.15 – PETS

(a)(1) The following structures and/or areas are closed to the possession of pets and all other animals:

- All monument areas with the exception of the interpretive trail, picnic area, parking lots and around the exterior of the visitor center.
- This restriction shall not apply to any service animal trained to provide assistance to and accompanied by an individual with a disability (as defined by the ADA and DOJ).

  *Note: Section 36 CFR §1.5 of this Compendium (VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES) addresses service animals and related regulations within Fort Union National Monument.

(a)(2) The following are prohibited:

- Failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all times.

(a)(3) Pets may be left unattended in the following areas, under the conditions noted:

- Within motor vehicles with proper ventilation and water if weather conditions are not hazardous to the immediate welfare of the animal.

(a)(5) Pet excrement must be disposed of in accordance with the following conditions:

- Pet excrement must be removed from all public use areas.

(e) Pets may be kept by monument residents under the following conditions:

- All State regulations concerning licensing and shots are met.
- Monument regulations and Housing Plan requirements are met.

<u>36 CFR §2.16 – HORSES and PACK ANIMALS</u>

(a) The following animals are designated as pack animals for purposes of transporting equipment:

- Horses
- Mules
- Burros
- Llamas
- Alpacas

(b) The use of horses and pack animals is allowed on the following trails, routes or areas:

- With the exception of any monument area specified in a permit and approved by the Superintendent, all areas are closed to horses and pack animals.

(g) Other conditions concerning the use of pack animals:

- Horses and pack animals are authorized in Fort Union National Monument when used in interpretive demonstrations or for monument operations.

<u>36 CFR §2.21 – SMOKING</u>

(a) The following portions of the monument, or all or portions of buildings, structures or facilities are closed to smoking as noted:

- All monument buildings with the exception of non-historic employee residences.

36 CFR §2.62 – MEMORIALIZATION

(b) A permit is required for the scattering of ashes from cremated human remains. Any such permit will at a minimum include the following terms and conditions:

- The remains to be scattered must have been cremated and pulverized.
- The scattering of remains by persons on the ground is to be performed at least 100 yards from any trail, road, developed facility, or body of water.

36 CFR §3.3 – VESSEL PERMITS

Permits are required for the use of a vessel in all areas of Fort Union National Monument. Exceptions include:

- Authorized personnel actively engaged in research activities.

36 CFR §3.21 – SWIMMING AND BATHING

(a)(1) Fort Union National Monument is closed to swimming and bathing activities.

36 CFR §4.10 – TRAVEL ON MONUMENT ROADS AND ROUTES

(a) Monument roads open for travel by motor vehicles are those indicated below:

- Visitor Center / Administration area access and parking lots
- Residential area access road
- Maintenance area
- Unpaved access roads
- Main paved monument road

36 CFR §4.21 – SPEED LIMITS

(b) The following speed limits are established for the routes/roads indicated:

- 30 miles per hour on all paved monument roads
- 15 miles per hour in the residential and maintenance area
- 10 miles per hour on the unpaved service roads and parking lot circle

CJ 4/8/14

APPENDIX 1

LOCATIONS AVAILABLE FOR:

PUBLIC ASSEMBLIES
AND
SALE & DISTRIBUTION OF PRINTED MATTER

CJ 4/8/14

Site #1
VISITOR CENTER