



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Caliente Resource Area

P.O. Box 237

Caliente, Nevada 89008



IN REPLY REFER TO:

4160
Grazing Case Files
Olson, Lewis
(NV-055.01)

(702) 726-8100

NOV 30 1993

CERTIFIED MAIL # P 998 558 385
RETURN RECEIPT REQUESTED

Dear Affected Interest:

Between July 28 and August 7, 1993, two wildland fires, the Meadow and Pass fires, burned in the Meadow Valley Mountains and adjacent areas of the Las Vegas District, Caliente Resource Area. 27,186 acres of public land were consumed by the fire affecting the short term livestock management in the Henrie Complex, Boulder Spring and Lower Riggs allotments.

It was determined through Environmental Assessment (NV-055-93-29) that the condition of the area was adversely affected and that a temporary closure of the area to domestic livestock was necessary. A Full Force and Effect Grazing Decision was issued October 5, 1993 to five livestock permittees implementing closure of the burn areas through controlled grazing. Since that time a determination was made to rescind those October 5, 1993 decisions that pertain to the Henrie Complex allotment (Kevin Olson and Robert Lewis). A new decision is being issued to Kevin Olson and Robert Lewis implementing closure of the burn areas through fencing.

These new grazing decisions are provided for your information. Please note, only one copy of the Attachment 3 is included with these two decisions in order to reduce paper. Attachment 3 is identical for the two decisions. If you have any questions regarding this action, please contact this office.

Sincerely,

Curtis G. Tucker
Area Manager

Enclosures: Grazing Decisions

Kevin Olson
Bob Lewis



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Caliente Resource Area
P.O. Box 237
Caliente, Nevada 89008



IN REPLY REFER TO:

4160
Lewis, Robert
Grazing Case File
(NV-055.10)

CERTIFIED MAIL NUMBER # P998558399
RETURN RECEIPT REQUESTED

NOV 24 1993

NOV 24 1993

FULL FORCE & EFFECT DECISION

Robert Lewis
P. O. Box 520
Moapa, NV 89025

Dear Mr. Lewis:

On October 15, 1993 I signed a Full Force & Effect Decision which modified your existing Federal Grazing Permit dated 11/25/92. The changes made to your permit by this Final Decision were: 1) inclusion of Terms and Conditions specific to the management of livestock - excluding them from the burn area within the Henrie Complex allotment, and 2) a temporary reduction in the active preference of the Henrie Complex allotment due to the loss of vegetation from the **Meadow and Pass** fires. I had considered information from the Meadow and Pass Fires Rehabilitation Plan Environmental Assessment (EA) to reach my final decision. The sequence of events resulting in that decision were:

The **Meadow and Pass** wildland fires burned a total of 27,186 acres of public land in the Meadow Valley Mountains and adjacent areas between July 28 and August 7, 1993. Of the total acres burned, 20,760 acres of public land were burned within the Henrie Complex allotment.

On September 8, 1993 my staff and I discussed with you implications of these wildland fires and what livestock management options were available to assure natural revegetation of the burned areas in the Henrie Complex allotment. Consideration was given all reasonable options and discussed in EA #NV-055-93-29.

The **Meadow and Pass Fire Closure Notice** was signed October 5, 1993 by the Las Vegas District Manager and mailed to you on October 7, 1993. This closure notice, issued as a Final Decision in Full Force and Effect pursuant to Title 43, Code of Federal Regulations (CFR), Sections 4110.3-3 (c) and 4160.3 (c), closed the entire burn area to all livestock grazing for a minimum of two years and/or until natural rehabilitation objectives have been met. The purpose of the closure was to protect soil resources and allow rehabilitation of vegetative resources within the burn area.

The Caliente Resource Area initiated a Fire Rehabilitation team immediately following containment of the Meadow fire. The team developed management recommendations for the protection of the natural resources and analyzed the impacts of these recommendations in EA NV-055-93-29). I signed, on September 29, 1993, a *Finding of No Significant Impact and Record of Decision* to implement Alternative #1 - Natural Revegetation with Controlled Livestock Grazing.

A portion of the burn closure area (20,742 acres) occurs within the Meadow Valley Herd Management Area (HMA). Environmental Assessment (#NV-055-93-31) and a Emergency Gather Plan for the Meadow Valley Mountain HMA analyzed the impacts of these two fires on the Meadow Valley Mountain wild horse herds' habitat. These documents were signed by the "Acting" District Manager on September 28, 1993. A Full Force and Effect decision authorizing the Meadow Valley HMA Emergency Removal was also signed on September 27, 1993.

Consequently, further review and discussion of this information and the alternatives discussed in EA #NV-055-93-29 has occurred. Therefore, based upon the previously identified information, discussion with you, reconsideration of alternatives and desire to implement impartial management consistent for both livestock and wild horses within that portion of the Henrie Complex allotment and Meadow Valley Mountain HMA where these two fires occurred, my Final Decision is to rescind the October 15, 1993 decision, cancel your existing permit dated 11/25/92 and issue you a new Federal Grazing Permit with the Terms and Conditions listed below, effective November 24, 1993 and expiring on 02/28/2002. The term of the new Federal Grazing Permit corresponds to the expiration date of your current Federal Grazing Permit dated 11/25/92. This Final Decision is to be placed in Full Force and Effect and will take effect immediately on November 24, 1993 to prevent any resource deterioration within the burn closure area of the Henrie Complex allotment.

Your new Federal Grazing Permit for the Henrie Complex allotment will be issued as follows:

FROM:

EXISTING FEDERAL GRAZING PERMIT

09/24/92 - 02/28/2002

ALLOTMENT NAME	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	SEASON OF USE		PERCENT FEDERAL LAND	ACTIVE PREFERENCE
			BEGIN DATE	END DATE		
HENRIE COMPLEX	81	CATTLE	03/01	02/28	100	975

TO:

NEW FEDERAL GRAZING PERMIT

11/24/93 - 02/28/2002

ALLOTMENT NAME	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	SEASON OF USE		PERCENT FEDERAL LAND	ACTIVE PREFERENCE
			BEGIN DATE	END DATE		
HENRIE COMPLEX	81	CATTLE	03/01	02/28	100	975

GENERAL TERMS AND CONDITIONS

The specific Terms and Conditions of your Federal Permit dated 11/25/92 remain unchanged (Attachment 1).

Specific Terms and Conditions relating to the closure of the Meadow and Pass fire burn areas to livestock grazing within the Henrie Complex allotment are as follows:

SPECIFIC TERMS AND CONDITIONS
FOR THE MEADOW AND PASS FIRE CLOSURE AREA

1. These specific Terms and Conditions shall remain in effect for a minimum of two years, beginning November 24, 1993 and continuing until monitoring indicates resource objectives for the burn area have been attained.
2. Livestock use will only be authorized to the east of the Union Pacific Railroad in the Henrie Complex allotment (Attachment 2), if you can show evidence the railroad right-of-way fence has been repaired and maintained by January 1, 1994 . Should this right-of-way fence not be maintained and repaired than the entire Henrie Complex allotment will be closed to livestock grazing.
3. Should continued maintenance and repair of the right-of-way fence after January 1, 1994 fail to keep livestock from the burn closure area, livestock shall be removed from the allotment immediately. The total closure of the Henrie Complex allotment to grazing, in order to insure protection of the burn area, will be implemented by the Bureau of Land Management under the authority of this decision.

4. Monitoring data (i.e. frequency, utilization, plant cover, density and or Community Structure information) will be collected to determine if the closure resource objectives have been met. Attachment 3 explains the methodologies to be employed in collecting the respective monitoring data.
5. Resource objectives established for the burn area in the Henrie Complex allotment for Key Areas 1 and 2 are identified below:

The frequency of occurrence of key perennial species shall fall within the range of values identified in Table 1. The ranges identified in Table 1 are based on a statistical analysis of the frequency data collected at the two Key Areas. The age class of key perennial species sampled shall be mature plants, 2 years or older, in order to insure plant establishment and improved rehabilitative conditions.

Table 1. Percent Frequency Value Ranges.

Key Area Number	Key Perennial Species	Frequency Value Ranges
1	HIRI	21%-37%
2	ARPU9	45%-69%

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR), which states in pertinent parts:

4130.6-2: "The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands."

Authority for this full force and effect decision is also contained in Title 43 CFR, which states in pertinent parts:

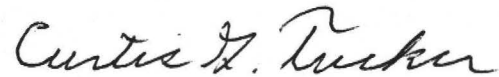
4110.3-3 (c) "When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under 4160.3 (c) of this title.

4160.3 (c): "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal".

If you wish to appeal this decision for the purpose of a hearing before a Administrative Law Judge, in accordance with 43 CFR 4160.3 (c), 4160.4, and 4.470, you are allowed thirty (30) days from receipt of this notice within which to file an appeal with the Caliente Resource Area Manager at the following address: Caliente Resource Area, Attn. Area Manager, P. O. Box 237, Caliente, NV 89008.

The appeal shall state the reasons, clearly and concisely, as to why you think this Final Decision is in error.

Sincerely,



Curtis G. Tucker
Area Manager

Attachments:

- #1 - Terms and Conditions from Federal Permit dated 9/25/92 (4 pp)
- #2 - Authorized livestock use area (1 pp)
- #3 - Methodologies to be employed in collecting the respective monitoring data (10 pp)

cc:

Resource Concepts, Inc.	Certified Mail Number P998558384
Commission for the Preservation of Wild Horses	Certified Mail Number P998558385
Wild Horse Organized Assistance, Inc.	Certified Mail Number P998558386
Animal Protection Institute of America	Certified Mail Number P998558387
Natural Resources Defense Council	Certified Mail Number P998558388
Sierra Club	Certified Mail Number P998558389
The Wilderness Society	Certified Mail Number P998558390
U.S. Fish and Wildlife Service	Certified Mail Number P998558391
N-5 Board	Certified Mail Number P998558392
Desert Tortoise Council	Certified Mail Number P998558393
Nevada Department of Wildlife	Certified Mail Number P998558394
Silver State Pleasure Riders	Certified Mail Number P998558395
National Wildhorse Association	Certified Mail Number P998558396
Las Vegas District Grazing Advisory Board	Certified Mail Number P998558397
International Society for the Protection of Mustangs and Burros	Certified Mail Number P998558398
Charlie Watson, Nevada Outdoor Recr. Assoc.	Certified Mail Number P998558400
Paul Clifford, Cleveland Museum of Natural History	Certified Mail Number P998558401

ATTACHMENT 1

SPECIFIC TERMS AND CONDITIONS FOR THE NEW FEDERAL GRAZING PERMIT

Henrie Complex Allotment

1. Grazing will be permitted in accordance with grazing Prescriptions 1 and 2 identified in the Opinion as amended.
2. Grazing prescription areas within your allotment are delineated on Attachment 2, titled Henrie Complex Allotment Map.
3. Livestock grazing use shall be authorized in the Henrie Complex allotment 06/15 through 02/28 in Prescription 1 and 03/01 through 02/28 in the Prescription 2 area and Non-Prescription area as identified in the following table and Attachment 2.

SPECIFIC USE AREAS AND
IDENTIFIED PERIODS OF USE

PRESCRIPTION AREAS ^{1/}	SEASON OF USE	
	BEGIN DATE	END DATE
Prescription 1 ^{2/}	06/15	02/28
Prescription 2 ^{3/}	03/01	02/28
Non-Prescription	03/01	02/28

^{1/} Refer to Attachment 2.

^{2/} Prescription 1, Tortoise Habitat Categories I, II, and Intensive III.

^{3/} Prescription 2, Tortoise Habitat Category III non-intensive.

4. All vehicle use in desert tortoise habitat within the Henrie Complex allotment shall be restricted to existing roads and trails.
5. Trash and garbage shall be removed from each camp site that is associated with livestock grazing operations (branding, sheep herding, roundup, etc.) and disposed of off site in a designated facility. No trash or garbage shall be buried at camp sites.
6. Use of hay or grains as a feeding supplemental shall be prohibited in desert tortoise habitat to avoid the introduction of non-native plant species. Mineral, protein and salt blocks are authorized subject to 43 CFR section 4130.6-2(c).
7. The allotment shall include at a minimum the following key species for monitoring purposes where appropriate based upon density and availability: galleta grass (*Hilaria jamesii*) and (*H. rigida*), bush muhly (*Muhlenbergia porteri*), sand dropseed (*Sporobolus cryptandrus*), Indian ricegrass (*Oryzopsis hymenoides*), black grama (*Bouteloua eriopoda*), desert needlegrass (*Stipa speciosa*), range ratany (*Krameria parvifolia*),

ephedra (*Ephedra spp.*), white burrobrush (*Hymenoclea salsola*) and winterfat (*Eurotia lanata*).

8. The following table identifies key areas, species and the maximum allowable use levels for specified periods of livestock grazing use, which shall be used at a minimum for monitoring purposes within Prescription 1 and 2 areas in the Henrie Complex allotment. As additional key species and or key areas are determined necessary for monitoring purposes, maximum allowable use levels will be established based upon the conditions as set forth in the Opinion for Prescription 1 and/or 2 areas.

EXISTING KEY AREAS, SPECIES AND ALLOWABLE USE LEVELS

KEY AREA & LEGAL DESCRIPTION	KEY SPECIES	PRESCRIPTION 2	
		10/15 TO 02/28	03/01 TO 10/14
1 T.10S., R.66E., Sec.6 (M-W)	Big galleta grass Nevada ephedra	≤50% ≤45%	≤40% ≤40%

9. The following table identifies the maximum allowable use levels for specified periods of livestock grazing use, which shall be used at a minimum for monitoring purposes within Prescription 1 and/or 2 areas.

ALLOTMENT NAME	PRESCRIPTION	ALLOWABLE USE LEVELS AND USE PERIODS PER GRAZING PRESCRIPTION		
		06/15 - 10/14	10/15 - 02/28	03/01 - 06/14
HENRIE COMPLEX	PRESCRIPTION 1	All Perennial Species - ≤40%	Key Perennial Grasses - ≤50% Key Perennial Shrubs and Forbs - <40%	No livestock use will be allowed during this period.
		06/15 - 10/14	10/15 - 02/28	03/01 - 06/14
	PRESCRIPTION 2	All Perennial Species - ≤40%	Key perennial grasses - ≤ 50% Key perennial shrubs & forbs - < 45%	All Perennial Species - ≤40%
		06/15 - 10/14	10/15 - 02/28	03/01 - 06/14

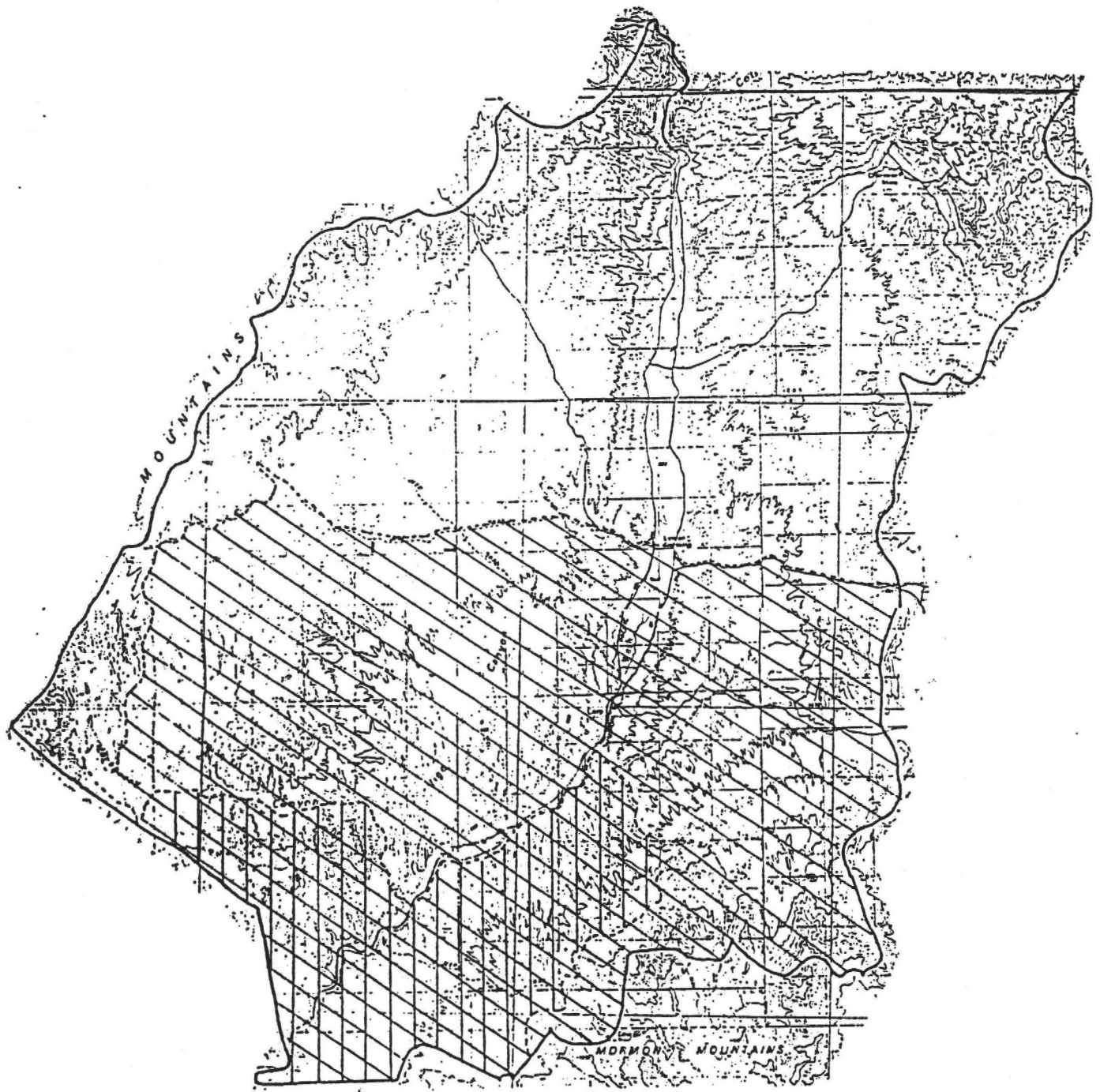
10. When the allowable use levels are reached for the Prescription 1 and/or 2 areas, the livestock must be removed from the allotment unless other management alternatives are authorized by the Caliente Resource Area Manager that are consistent with the Opinion and this decision.
11. Adequate livestock control must be provided by existing range improvements within the Henrie Complex allotment to prevent livestock from continually migrating into the Prescription 1 area during the period 03/01 through 06/14. If livestock continually migrate into the Prescription 1 area, the entire allotment will be required to be managed under Prescription 1 until range improvements become available to stop such action.

12. By March 1, 1993 all cattle (six months of age or older at turn out) will be required to be ear tagged by you with BLM issued ear tags. Additionally, you are required to submit a list of ear tag numbered cattle turned out/authorized on the Henrie Complex allotment. The list must be submitted to the Caliente Resource Area office within seven (7) days of turn out. At the end of the authorized grazing period, any ear tag numbers not accounted for, shall be reported to the Caliente Resource Area office within 15 days.
 - a. Since your operation is of a year round nature and it would be difficult to ear tag all cattle prior to the March 1, 1992 date, I have extended the date to ear tag all your cattle to March 1, 1993. In order to assure adequate cattle control is provided to prevent cattle from continually migrating into the Prescription 1 area, all cattle found in the Prescription 1 area during the period 03/01/92 through 06/14/92 shall be ear tagged by you with a BLM ear tag. Terms and Conditions number 15 and 16 will then be followed.
13. You are required to remove and return to the Caliente Resource Area office all BLM issued ear tags of cattle shipped/sold. This must be done prior to being issued replacement tags.
14. Replacement tags for brush loss, unfound death loss, or other unexplained losses will be issued on a case by case basis at the determination of the Caliente Resource Area Manager.
15. Any livestock found in the Prescription 1 area during the period of 03/01 through 06/14 shall be relocated to the Prescription 2 and/or Non-Prescription area within 72 hours. The ear tag numbers of any cattle found in the Prescription 1 area during the period 03/01 through 06/14 shall be recorded and submitted in writing to the Caliente Resource Area office within five (5) days of being observed.
16. Any livestock found in the Prescription 1 area during the period of 03/01 through 06/14 and which were previously recorded and relocated to the Prescription 2 and/or Non-Prescription area shall be removed from the Henrie Complex allotment within 72 hours of being observed.
17. Applications for changes in grazing use must be in written form and be received by the Caliente Resource Area office no later than 15 days prior to the desired date of change.
18. Applications for changes in grazing use filed after a billing notice has been issued, and which require the issuance of a replacement bill or supplemental bill shall be subject to a ten (10) dollar service charge.
19. Grazing Applications will be issued on a yearly basis showing all grazing use as active by Prescription 1, 2 and/or Non-Prescription areas. If you desire to take all or partial non-use for the grazing year, you must indicate this in writing on your Grazing Application, along with your reason(s).

20. A statement of Actual Grazing Use made on the Henrie Complex allotment by grazing Prescription area, 1, 2 and/or Non-Prescription areas must be received in the Caliente Resource Area office no later than 15 days after the last day of authorized grazing use. In the case of year round grazing, this Actual Grazing Use statement must be received in the Caliente Resource Area office no later than March 15th of each year.

ATTACHMENT 2

HENRIE COMPLEX ALLOTMENT



LEGEND

Prescription 1
(Shading 0010-0201)



Prescription 2
(Shading 0201-0202)



Non-Prescription
(Shading 0201-0202)



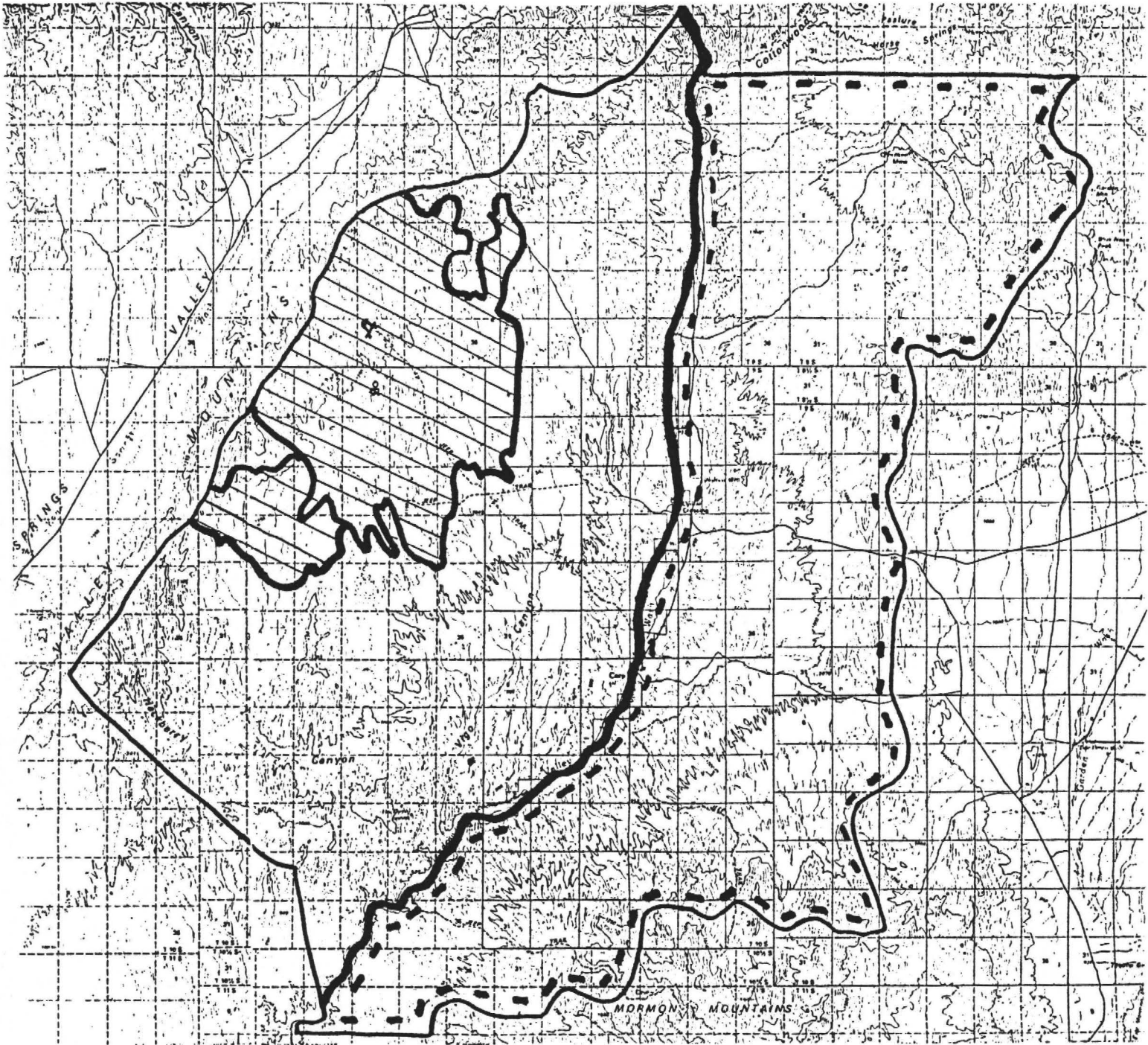
Prescription
Boundary








Allotment
Boundary



ATTACHMENT #2
Henrie Complex Allotment
Authorized Livestock Use Area



LEGEND	
Authorized Use Area:	
Meadow and Pass Burns:	
Allotment Boundary:	
Reservoir:	
Spring:	

WHTOA

Comments on Caliente Decisions

Under CFR 4110.3-3 (c) It states that action must be taken after consultation with affected permittees or lessees and other affected interests, either to close allotments or portions of allotments to grazing by all or a particular kind of livestock or to modify authorized grazing use.

Your decisions show that you met with the permittees on September 7 and 8 1993. Your letter to the Affected Interests does not request a meeting or any input. As a result the livestock operators take little or no reduction in use while wild horses take a 95% reduction.

It would seem that what was discussed at the meetings on Sept 7 & 8 were extremely important. Since no horse groups were present and agreement between livestock operators and yourselves sealed the ~~the~~ fate of the wild horses.

You also state that utilization on the riparian areas is severe (in the EA) The Bureau have many wild horse

Gina
609-924-1528

94-011

Rhonda (Susie) Thompson
NWHBA 438 5249

~~4384~~
~~6021~~

~~329 3877~~
~~104~~

specialists that will testify that horses most generally will not use a riparian area to a state of severe utilization. How can you justify no removal of livestock.

In your decisions to the livestock operators you have decisioned conditions that are already existing regulations for any livestock operator. You say nothing about animals being found in trespass if they are in the closure area and you have given the livestock operator an abundance of wiggle room to continue grazing.

A closure is just that any livestock found within it are considered in trespass! The determination as to whether it's willfall or non-willfall you as an Area Manager do not have the authority to circumvent the regulations. Any change from this takes you outside of your authority. Please keep this in mind.

You do not state in your decision what will be done if frequency of key species do not meet the desired frequency. Will the ~~attainment~~ burned area remain closed will the grazing prescription be changed? Be specific.

It appears that you have used the circumstance of a range wildfire to reduce the number of wild horses without following Bureau's accepted procedures. Your documentation of meetings with only the livestock interests and only after the fact notification of the wild horse interests, and then severe reductions of horses with almost no reduction of livestock, appears to show that multiple use management in the Caliente Resource Area is far from a reality.