

G ✓ 3-7-94



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Caliente Resource Area

P.O. Box 237

Caliente, Nevada 89008

IN REPLY REFER TO:

4710

Meadow Valley Mtn HMA File

Robert Lewis Case File

(NV-055.07)

CERTIFIED MAIL # P 998 558 598

RETURN RECEIPT REQUESTED

MAR 07 1994

NOTICE OF PROPOSED DECISION

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

Dear Mr. Lewis:

On February 15, 1994 I received a grazing application from you to graze 38 horses on the Breedlove allotment from March 1, 1994 to February 28, 1995.

Between July 28 and August 7, 1993, the **Meadow and Pass** wild land fires burned a total of 27,186 acres of public land in the Meadow Valley Mountains and adjacent areas.

The **Notice of Closure** to all livestock grazing use in the **Meadow and Pass Fire Closure Area** was signed by the Las Vegas District Manager and 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) on October 5, 1993. The purpose of this closure is to protect the soil resources and allow rehabilitation of vegetative resources to occur within the burn area.

I have considered this and the following information to be important to my proposed decision:

The Meadow and Pass Fire burn areas fall within the Meadow Valley Mountain Herd Management Area (HMA). An Environmental Assessment ((EA) #NV-055-93-31) and Emergency Gather Plan for the Meadow Valley Mountain HMA was written to analyze the impacts of these fires on the Meadow Valley Mountain wild horse herd's habitat on September 28, 1993. A Full Force and Effect decision to conduct the Meadow Valley Mountain HMA Emergency Removal was issued on September 27, 1993 by the Las Vegas District Manager.

Approximately 160 wild horses were identified for removal from the herd management area and adjacent horse free areas including the Breedlove allotment to allow for the natural re-vegetation of the burn area during the two year closure period.

TRESPASS? What proof

During the week of October 4 through October 10, 1993, 211 wild horses, mules, and burros were captured on the Breedlove allotment. Twenty-seven unbranded horses were claimed as private animals after inspection and approval by a Nevada Department of Agriculture brand inspector.

intermixing

From 1962 until 1992, Henry Rice, the previous permittee for the Breedlove allotment, annually applied for and was authorized to graze domestic horses.

Your current Federal Grazing Permit includes the Grapevine, Henrie Complex and Breedlove allotments. The Breedlove allotment portion of this permit identifies the kind of livestock as being both domestic horses and cattle. This proposed decision only relates to the Breedlove allotment portion of your permit.

As a result of the removal and trailing data, it has been determined that the domestic licensed horses are mixing with the wild horses from the adjacent HMA (Meadow Valley Mountain). Due to the lack of fencing between the Breedlove allotment and the Meadow Valley Mountain HMA, it is not feasible to prevent the domestic horses from running in common with the resident wild horses.

Therefore, to assure that management of domestic horses does not interfere with the implementation of herd management actions and the protection of wild horses and their habitat in the future, my Proposed Decision is to modify your existing Federal Grazing Permit dated November 25, 1992 by closing your allotment to domestic horse use. Your modified permit will show a change in kind of livestock authorized from domestic horses and cattle to cattle only. A modified Federal Grazing Permit will be issued as listed below effective 06/15/1994 and expires 02/28/2002.

The Breedlove allotment portion of your ten year Federal Grazing Permit will be modified as follows:

FROM:

EXISTING FEDERAL GRAZING PERMIT
03/01/92 - 02/28/2002

ALLOTMENT NAME	LIVESTOCK NUMBER	LIVESTOCK KIND	SEASON OF USE		PERCENT FEDERAL LAND	ACTIVE PREFERENCE
			BEGIN DATE	END DATE		
BREEDLOVE	75	CATTLE	06/15	02/28	90	575
BREEDLOVE	38	HORSES	06/15	02/28	90	291

This closure to domestic horse use and subsequent change in kind of livestock classification does not affect the active preference of 864 AUMs for the Breedlove allotment. The specific Terms and Conditions identified in my decision to you dated January 31, 1992 for your existing ten year Federal Grazing Permit remain unchanged (attachment 1).

TO:

MODIFIED FEDERAL GRAZING PERMIT
06/15/94 - 02/28/2002

ALLOTMENT NAME	LIVESTOCK NUMBER	LIVESTOCK KIND	SEASON OF USE		PERCENT FEDERAL LAND	ACTIVE PREFERENCE
			BEGIN DATE	END DATE		
BREEDLOVE	113	CATTLE	06/15	02/28	90	864

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

4130.6-1 (a): "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under CFR 4110.3, 4110.3-1 and 4110.3-2."

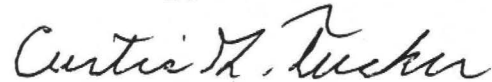
4130.6-2: "The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands."

4710.5 (a): "If necessary to provide habitat for wild horses and burros, to implement herd management actions, or to protect wild horses and burros, to implement herd management actions, or to protect wild horses and burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of livestock."

If you wish to protest this decision, you are allowed 15 days from receipt of this decision to notify the authorized officer in person or writing, your reasons why this decision is in error. If no protest is received within that time, this proposed decision becomes my final decision. If you wish to appeal the final 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 protest and/or appeal shall state the reasons, clearly and concisely, as to why you think this Decision is in error.

Sincerely,



Curtis G. Tucker
Area Manager

Attachments:

Desert Tortoise Terms and Conditions (2 pp.)

cc: NV-960

NV-050 (NV-053)

Wild Horse Organized Assistance, Inc.

Nevada Division of Wildlife

Animal Protection Institute of America

U.S. Fish and Wildlife Service

N-5 Grazing Board

Commission for the Preservation of Wild Horses

National Wild Horse Association

International Society for the Protection of Mustangs and
Burros

Resource Concepts, Inc.

Lincoln County Commissioners

ATTACHMENT 1

SPECIFIC TERMS AND CONDITIONS
FOR THE NEW FEDERAL GRAZING PERMIT

Breedlove allotment

1. Grazing will be permitted in accordance with grazing Prescriptions 1 as identified in the Opinion as amended.
2. Grazing prescription areas within your allotment are delineated on the Breedlove Allotment Map.
3. Livestock grazing use shall be authorized in the Breedlove allotment from 06/15 through 02/28 as identified in the following table and Breedlove allotment map.

SPECIFIC USE AREAS AND
IDENTIFIED SEASONS OF USE

PRESCRIPTION AREAS ^{1/}	SEASON OF USE	
	START DATE	END DATE
Prescription 1 ^{2/}	06/15	02/28

^{1/} Refer to map.

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

4. All vehicle use in desert tortoise habitat within the Breedlove 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 in the Breedlove 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 Biological Opinion for Prescription 1 areas.

EXISTING KEY AREAS, SPECIES AND ALLOWABLE USE LEVELS

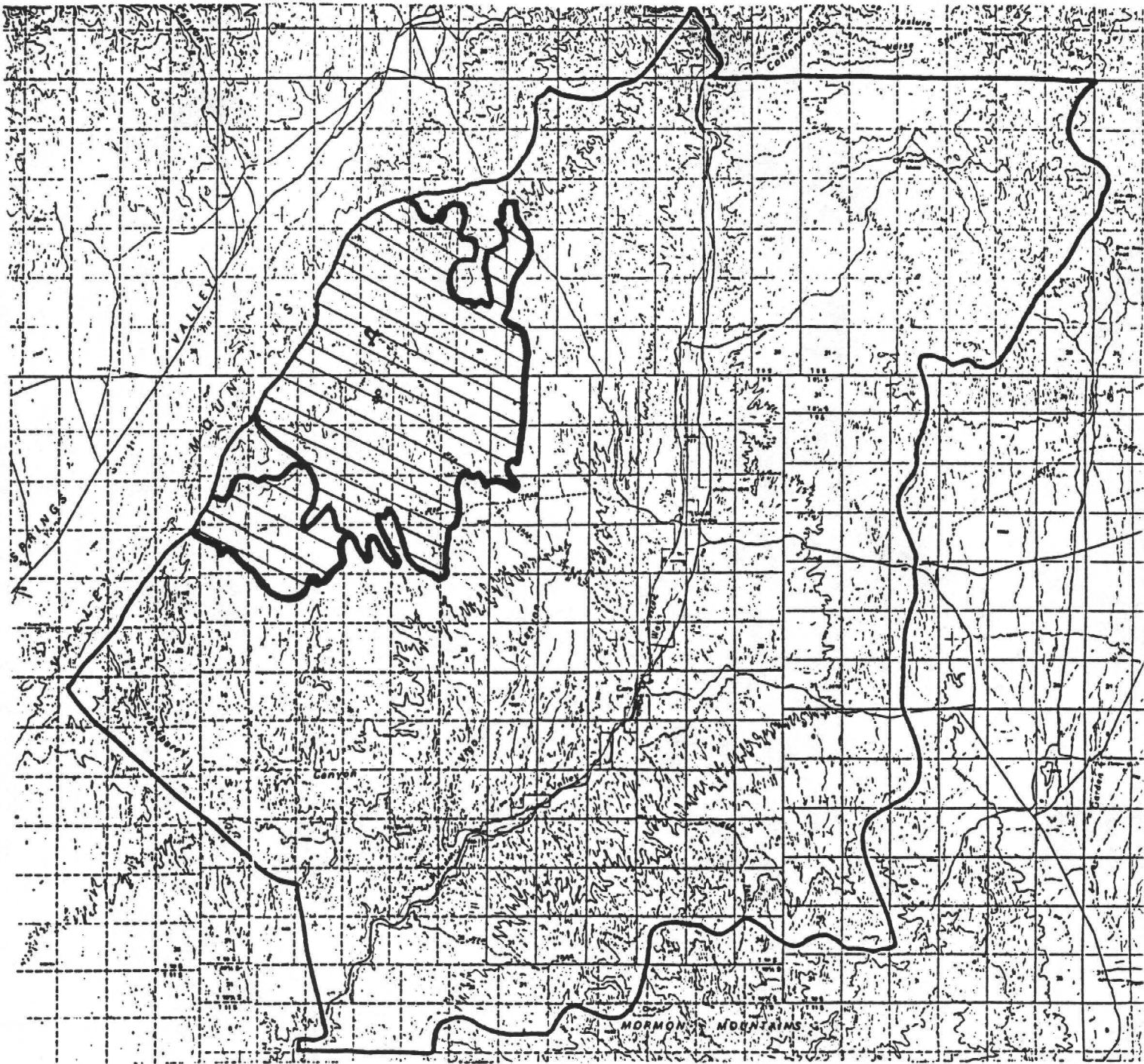
KEY AREA & LEGAL DESCRIPTION	KEY SPECIES	PRESCRIPTION 1		
		10/15 - 02/28	03/01 - 06/14	06/15 - 10/14
1 (T.12S., R.66E., Sec. 17)	Big galleta grass Nevada ephedra	≤ 50%	No livestock use will be made dur- ing this period.	≤ 40% ≤ 40%

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 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
BREEDLOVE	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.


10. When the allowable use levels are reached for the Prescription 1 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. 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.
12. 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.
13. Grazing Applications will be issued on a yearly basis showing all grazing use as active. 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).
14. A statement of Actual Grazing Use made on the Breedlove allotment must be received in the Caliente Resource Area office no later than 15 days after the last day of authorized grazing use.


ATTACHMENT #1
Henrie Complex Allotment Burn Closure
Area and Water Access Control Locations




LEGEND

Allotment Boundary: 

Burn Closure: 

Averett Reservoir: 

Hidden Spring: 

ATTACHMENT #2

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.

**MEADOW VALLEY MOUNTAIN
HERD MANAGEMENT AREA**

Map Legend



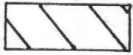
Herd Management Area Boundary



Allotment Boundary

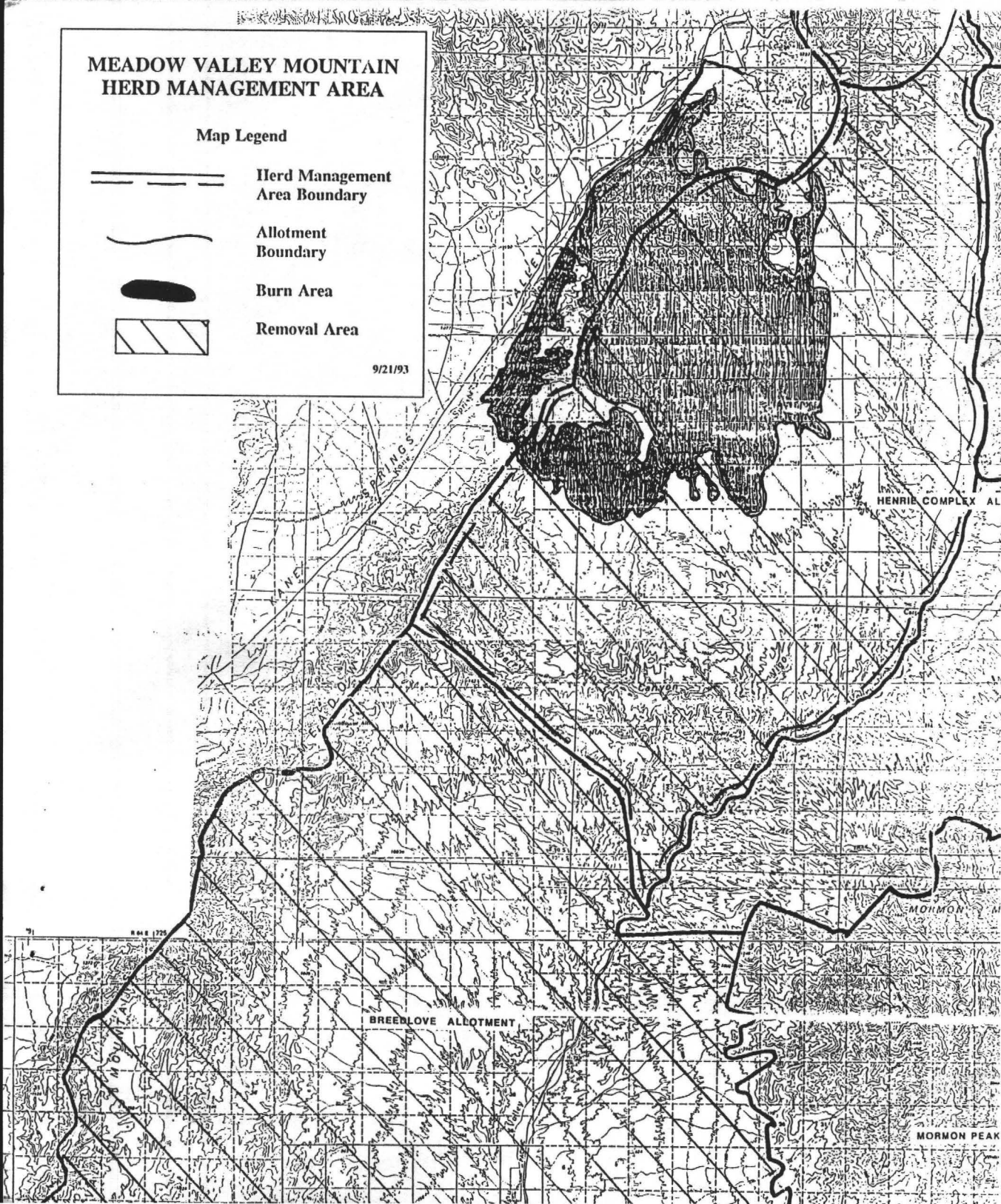


Burn Area



Removal Area

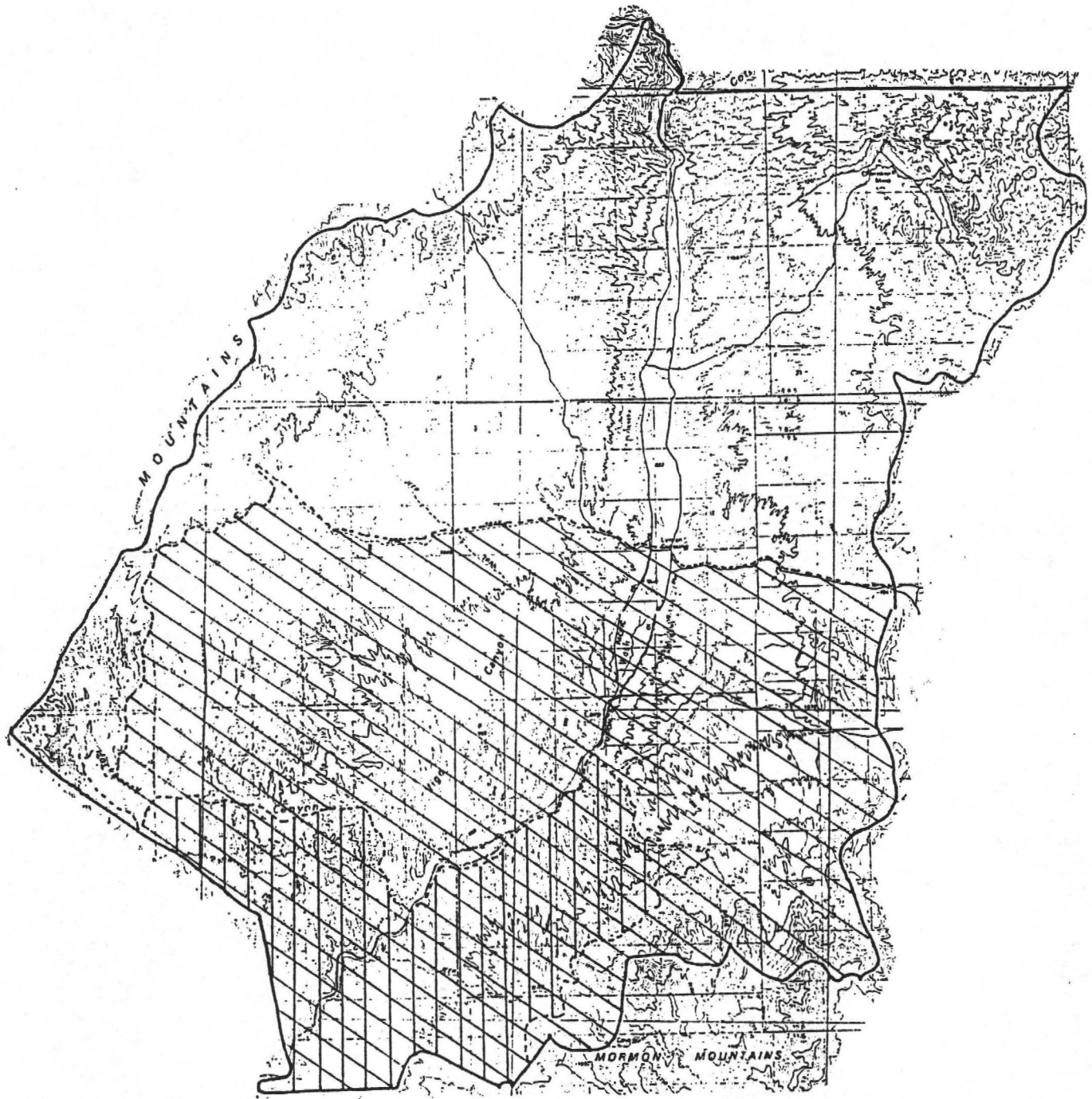
9/21/93



herd area
Henrie Henri allot

ATTACHMENT 2

HENRIE COMPLEX ALLOTMENT



LEGEND

Prescription 1
(Ordinary 09/14-03/01)



Prescription 2
(Ordinary 03/01-02/20)



Non-Prescription
(Ordinary 03/01-02/20)



Prescription
Boundary



Allotment
Boundary



3-15-94

March 15, 1994

Tom Ballow, Director
Nevada Department of Agriculture
Box 11100
Reno, Nevada 89510

Dear Mr. Ballow,

We have recently received a copy of the Notice of Proposed Decision for the grazing application on the Breedlove Allotment.

In that proposed decision we noticed that during the gather of wild horses last October 1993, that twenty-seven unbranded horses were claimed as private animals during that time. We were never notified of this prior to this date. It is the determination of the BLM with the approval of the Nevada Department of Agriculture Brand Inspector as to the status of wild free roaming or estray. Would you please provide us with the specific documentation on each of those twenty-seven horses that caused you to determine their lack of wild free roaming status that resulted in their estray status therefore allowing the permittee to claim those animals. Please provide us with the individual information used in detail how each of these twenty seven horses were determined to be privately owned and not wild free roaming.

If you have any questions, please feel free to call. Thank you in advance for this information.

Sincerely,

CATHERINE BARCOMB
Executive Director