



# United States Department of the Interior

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



IN REPLY REFER TO:

In Reply Refer To:  
4700  
(NV-055.07)

CERTIFIED MAIL # P313 269 516  
RETURN RECEIPT REQUESTED

## NOTICE OF FINAL DECISION FULL FORCE AND EFFECT

### MEADOW VALLEY MOUNTAINS HERD MANAGEMENT AREA (HMA) EMERGENCY REMOVAL

Severe drought conditions exist within the Meadow Valley Mountains HMA and adjacent areas. Forage production is extremely limited. Forage utilization in the primary use area (southern half of the HMA) is currently in a severe use category. From field observations of available forage and water as well as a review of monitoring data, it has been determined the wild horses and their habitat are being adversely impacted.

Approximately 50 wild horses must be gathered from the Meadow Valley Mountains HMA as well as approximately 40 wild horses and burros within the Breedlove Allotment (non-HMA area). All wild horses gathered will be placed into the adoption program. The gather operation will be conducted by helicopter trapping and/or roping. No wild horses will be retained within the Meadow Valley Mountains HMA following this gather operation.

The west half of the Henrie Complex Allotment is currently closed to domestic livestock grazing (per Full Force and Effect Decision issued 11/24/93).

Due to the emergency nature of these conditions, it is necessary to implement this immediately through a Full Force and Effect Decision. This decision will be implemented on or about August 17, 1996 and will continue until the action is completed. The rationale for placing this decision in Full Force and Effect are as follows:

1. Drought conditions have critically limited forage production and water availability for wild horses. The Meadow Valley Mountains HMA is receiving severe use, has received 50% of its normal precipitation, and is not expected to produce enough forage to sustain the animals currently occupying the area.
2. Water availability for the horses' consumption is limited to two water sources located within Hackberry Canyon on the southern boundary of the HMA. All reservoirs within the HMA are dry.

**AUTHORITY:** The authority for this decision is contained in Sec.3(a) and (b) and Sec.4 of the Wild Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and Title 43 of the Code of Federal Regulations. The authority for the Full Force and Effect decision can be found at 43 CFR 4770.3(c) which states:

"Notwithstanding the provisions of paragraph (a) of 4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision."

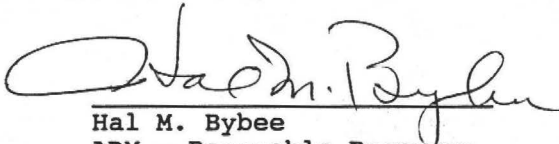
**APPEALS:** Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file an appeal and petition for a stay, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(c). Copies of the Notice of Appeal and Petition for a Stay must be submitted to (1) the Interior Board of Land Appeals, Office of Hearing and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, (2) the Regional Solicitor's Office, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, and (3) Ely District Office, HC 33 Box 33500, Ely, NV 89301-9408. The original documents should be filed with this office.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of decision pending appeals shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

**ADDITIONAL INFORMATION:** Contact Alan B. Shepherd of my staff, at (702) 726-8100 or write at the above address.

Concurrence:

  
Hal M. Bybee

ADM - Renewable Resource  
Ely District

08/16/96  
Date

Approval:



Gene A. Kolkman  
District Manager  
Ely District

8/16/96  
Date

Enclosure:

1. Capture Plan

**MEADOW VALLEY MOUNTAINS HERD MANAGEMENT AREA  
EMERGENCY GATHER PLAN**

**PREPARED BY  
Alan B. Shepherd  
Wild Horse and Burro Specialist**

**Caliente Field Station  
Ely District  
August 1996**

## I. Purpose and Need

Resource conditions and animal health are currently being adversely affected by severe drought conditions in the southern portion of the Ely District, in Lincoln County, Nevada. The drought conditions prevent the Herd Management Area (HMA) from producing adequate forage to sustain those animals currently occupying the area. To prevent resource degradation and animal stress, an emergency gather will be initiated.

The Ely District Manager has determined that a Full Force and Effect Decision is necessary to accomplish an emergency gather to prevent resource degradation. Field observations of forage and water availability have indicated that wild horses and their habitat are being negatively impacted. The following conditions exist within the Meadow Valley Mountains HMA and adjacent areas:

**Forage Condition:** Current year's growth is extremely limited. Growth on native grasses (Indian ricegrass, small galleta) averaged less than 3 inches.

**Forage Utilization:** Severe utilization on herbaceous forage documented throughout the emergency gather area.

**Precipitation:** Precipitation for the past 12 months has averaged 50% of normal.

**Water Availability:** Water is limited to two water sources located within Hackberry Canyon along the southern boundary of the HMA. All reservoirs within the emergency gather area are dry.

**Animal Condition:** Lact./mares = condition classes 2-4  
Studs = condition class 4

**Capture Method:** Helicopter trapping and/or roping

**Number of Animals:** Meadow Valley Mountains HMA Horses: capture 50, remove 50  
Non-HMA area (Breedlove Allotment): capture 40, remove 40 (horses and burros)

**Age Criterion:** All horses and burros

## II. Area of Concern

The proposed emergency gather area is located on public lands administered by the Bureau of Land Management's (BLM) Ely District, in Lincoln County, Nevada. The areas of concern are the Meadow Valley Mountains HMA (western one-half of the Henrie Complex Allotment) and the Breedlove Allotment (non-HMA area), approximately 30 miles south of Caliente, Nevada (refer to Map 1&2).

### III. Numbers of Horses

Based on census data obtained in November 1994 and past gathers, approximately 50 wild horses exist within the Meadow Valley Mountains HMA and approximately 40 horses and burros within the Breedlove Allotment. No wild horses will be retained within the Meadow Valley Mountains HMA following the gather operation.

### IV. Time Frame

The animals will be removed from the HMA beginning approximately August 20, 1996 and continuing until the emergency gather is completed.

### V. Gather Methods

The animals will be gathered through the use of helicopter trapping and/or roping. The gather operation will adhere to the "Nevada Wild Horse and Burro Gather Contract" Number 1422-N660-C96-3004.

### VI. Administration of the Contract

The BLM will be responsible, through the above-cited contract (1422-N660-C96-3004), for all capture, care, and temporary holding of animals until release. The Contracting Officers Representative (COR) will be the Wild Horse and Burro Specialist from the Caliente Field Station, who will be directly responsible for conducting the emergency gather.

### VII. Desert Tortoise

1. The contractor and all employees will be informed about the desert tortoise (which will include information provided by the BLM on the life history of the desert tortoise, its protected status, protocols for dealing with tortoises if and when they are encountered, and the definition of "take" via informational handout provided by the BLM. Each shall be advised of the potential impacts to desert tortoises and potential penalties (up to \$50,000 in fines and one year in prison) for taking a Federally protected species.

The contractor shall ensure that all personnel associated with the gather shall acknowledge receipt of the tortoise information through the signing of the acknowledgement for which shall be returned to the BLM upon completion of circulation to all employees.

2. Trap sites and holding corral locations and helicopter staging areas will be selected with the input of a BLM biologist to ensure that impacts to tortoise habitat are avoided.

3. Trap sites, holding corral, and staging areas will be surveyed for desert tortoise and tortoise burrows before use by a BLM biologist. If an active tortoise burrow is located on the proposed site, a new site will be selected.
4. To the extent possible, all traps, holding corrals, and staging areas will be located in previously disturbed areas, which are devoid of perennial vegetation and will be located adjacent to existing roads and trails.
5. To the extent possible, vehicular travel will be restricted to existing roads, trails, and washes. If off-road vehicular travel is necessary, the route will be surveyed for the presence of desert tortoise before use.
6. Garbage and similar items will be placed in appropriate containers and not allowed to accumulate in order to discourage the attraction of ravens to the area.
7. If a desert tortoise should wander onto the trap, holding corral or staging area, all activities with the potential to harm the desert tortoise will cease until the tortoise moves out of harms way under its own volition.
8. The discharge of firearms will be prohibited at all trap and holding sites except in the case of euthanasia of a captured animal (wild horse, mule, or burro) by a authorized BLM employee.

#### VIII. Disposal of Removed Animals

All wild horses gathered will be sent to the Palomino Valley Center to be prepared for adoption.

#### IX. Branded and Claimed Animals

A notice of intent to impound to gather wild horses and burros will be issued concurrently by BLM, prior to any gathering operations in this area. The Nevada Department of Agriculture and the District Brand Inspector will receive copies of these notices, as well as the Notice of Public Sale, if issued. The COR or Project Inspector (PI) will contact the District Brand Inspector and arrange dates and times if brand inspections are needed. Impounded privately owned animals will be handled in accordance with BLM, Nevada State Office Instruction Memoranda NV-84-116 and NV-85-416.

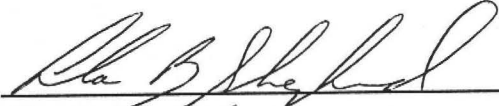
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XI. Responsibility

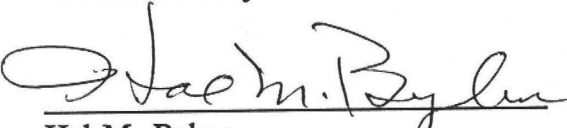
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Prepared By:

  
Alan B. Shepherd  
Wild Horse and Burro Specialist  
Caliente Field Station  
Ely District


8/15/96  
Date

Concurrence By:

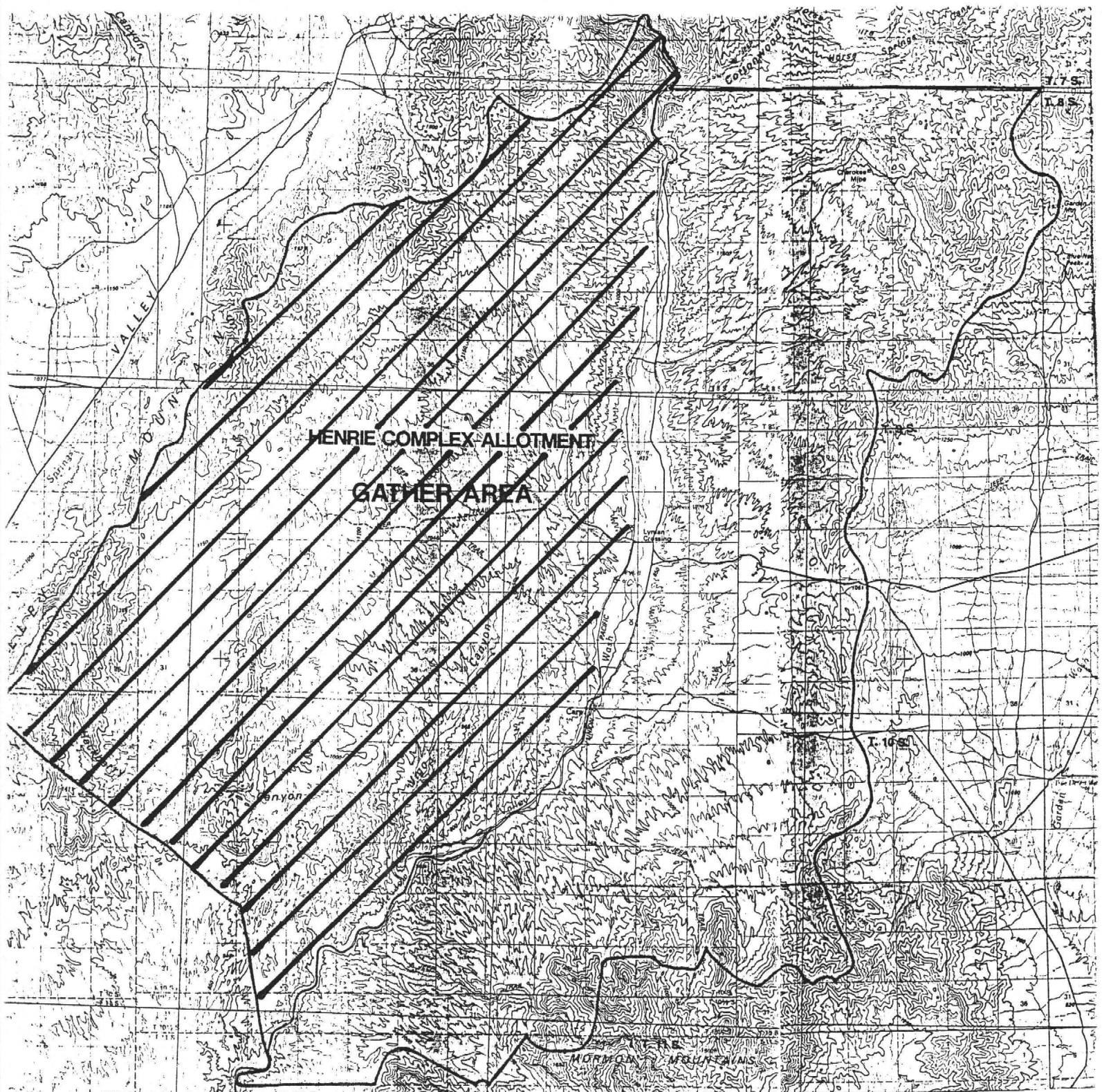
  
Hal M. Bybee  
ADM - Renewable Resources  
Ely District

08/16/96  
Date

Approved By:

  
Gene A. Kolkman  
District Manager  
Ely District

8/16/96  
Date





# HENRIE COMPLEX ALLOTMENT

MEADOW VALLEY HMA

MORMON MTN. HMA

# BREEDLOVE ALLOTMENT

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T.11 S

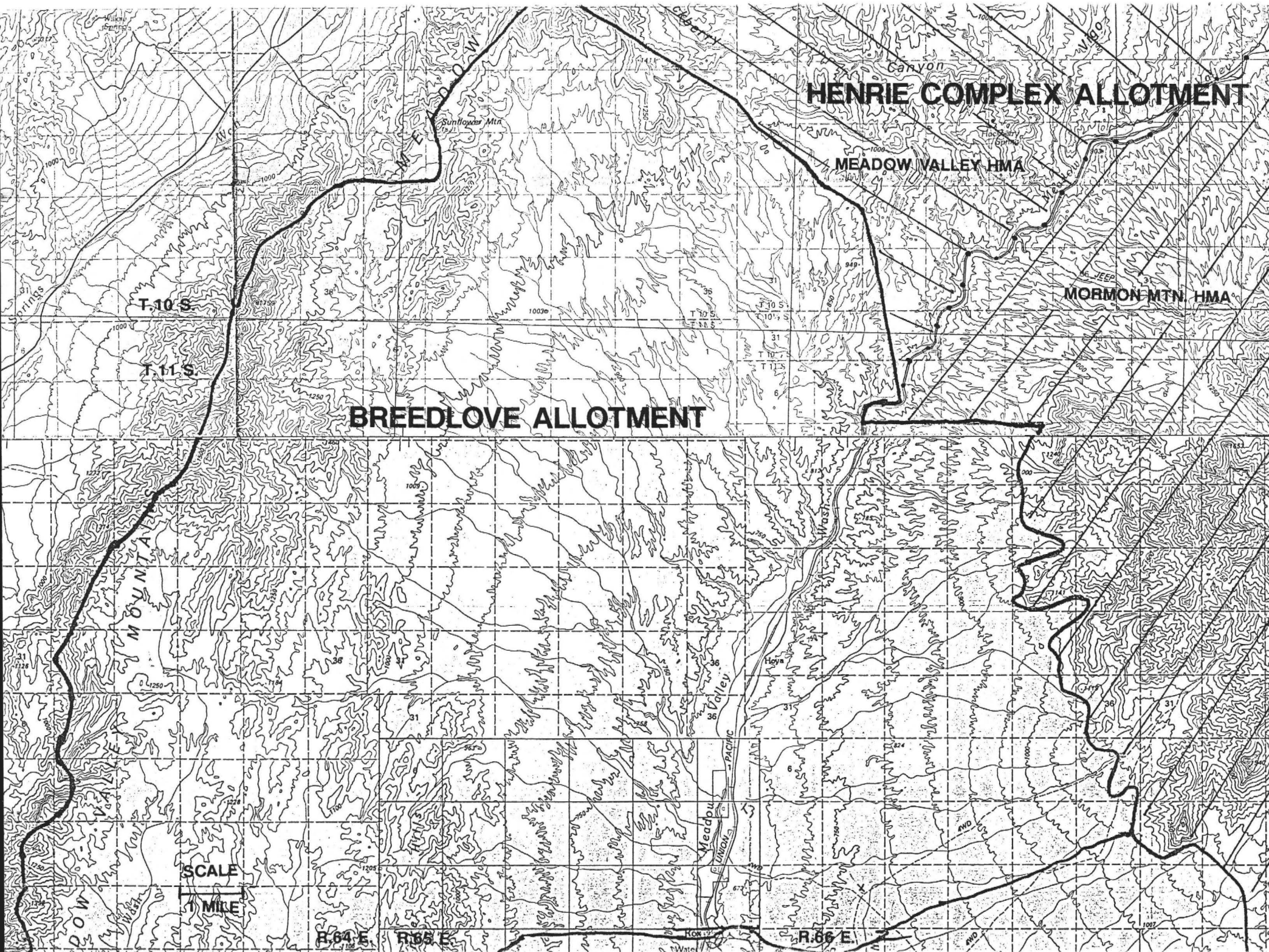
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# NEVADA STATE CLEARINGHOUSE

Department of Administration  
Planning Division  
Blasdel Bldg., Rm. 200  
(702) 687-4065  
fax (702) 687-3983

## F.Y.I.

**DATE: August 23, 1996**

### Governor's Office

Nuclear Projects Office  
Business & Industry  
Agriculture  
Minerals  
Energy  
Economic Development  
Tourism  
Fire Marshal  
Human Resources  
Aging Services  
Health Division  
Colorado River Commission  
Indian Commission

Legislative Counsel Bureau  
Communications Bd.  
Emp. Training & Rehab.  
Research Division  
PSC  
Transportation  
UNR Bureau of Mines  
UNR Library  
UNLV Library  
Wild Horse Commission  
Historic Preservation  
Emergency Management  
Washington Office

Conservation-Natural  
Resources  
Director's Office  
State Lands  
Environmental Protection  
Forestry  
Wildlife  
Region 1  
Region 2  
Region 3  
Conservation Districts  
State Parks  
Water Resources  
Water Planning  
Natural Heritage

**Subject: NOTICE OF FINAL DECISION – Meadow Valley Mountain Herd  
Management Area Emergency Removal, Full Force and Effect**

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### **See Related SAI # 94300032**

Enclosed for your review is a copy of the above-mentioned document. The circulation of this document is for your information only. You are not expected to comment on this document. However, the Clearinghouse Office always welcomes input on pertinent issues. If you have any questions, please contact Julie Butler, Clearinghouse Coordinator, at 687-6367, or Terri Rodefer, Clearinghouse Environmental Advocate, at 687-6382.



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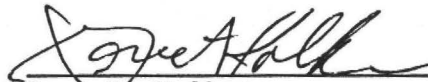
Concurrence:



Hal M. Bybee  
ADM - Renewable Resource  
Ely District

08/16/96  
Date

Approval:



Gene A. Kolkman  
District Manager  
Ely District

8/16/96  
Date

Enclosure:

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**PREPARED BY  
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Wild Horse and Burro Specialist**

**Caliente Field Station  
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August 1996**

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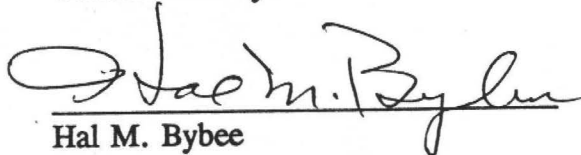
Prepared By:



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Caliente Field Station  
Ely District

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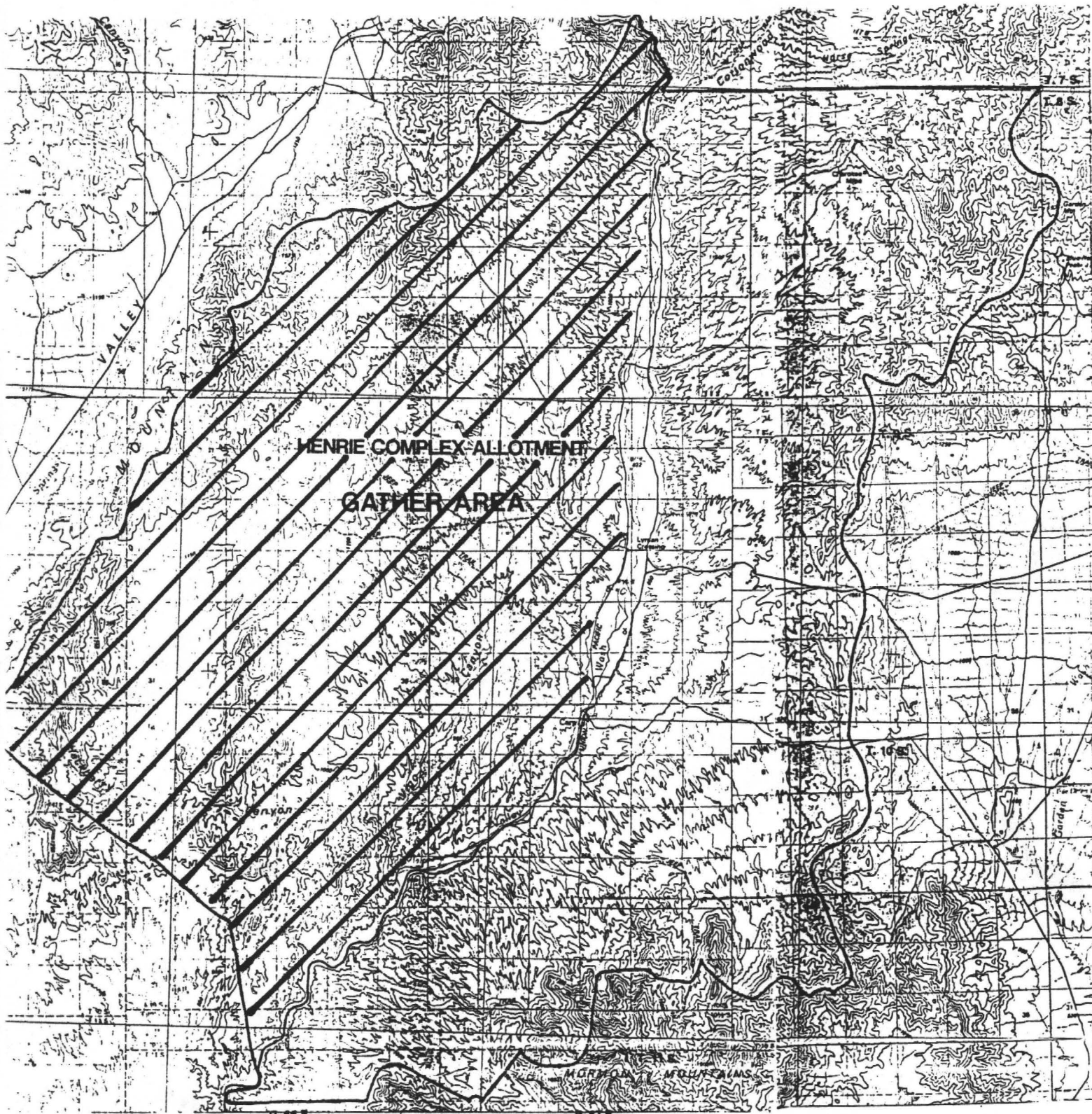
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Gene A. Kolkman  
District Manager  
Ely District

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Date



HENRIE COMPLEX ALLOTMENT  
GATHER AREA

# HENRIE COMPLEX ALLOTMENT

MEADOW VALLEY HMA

MORMON MTN HMA

# BREEDLOVE ALLOTMENT

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T.11 S

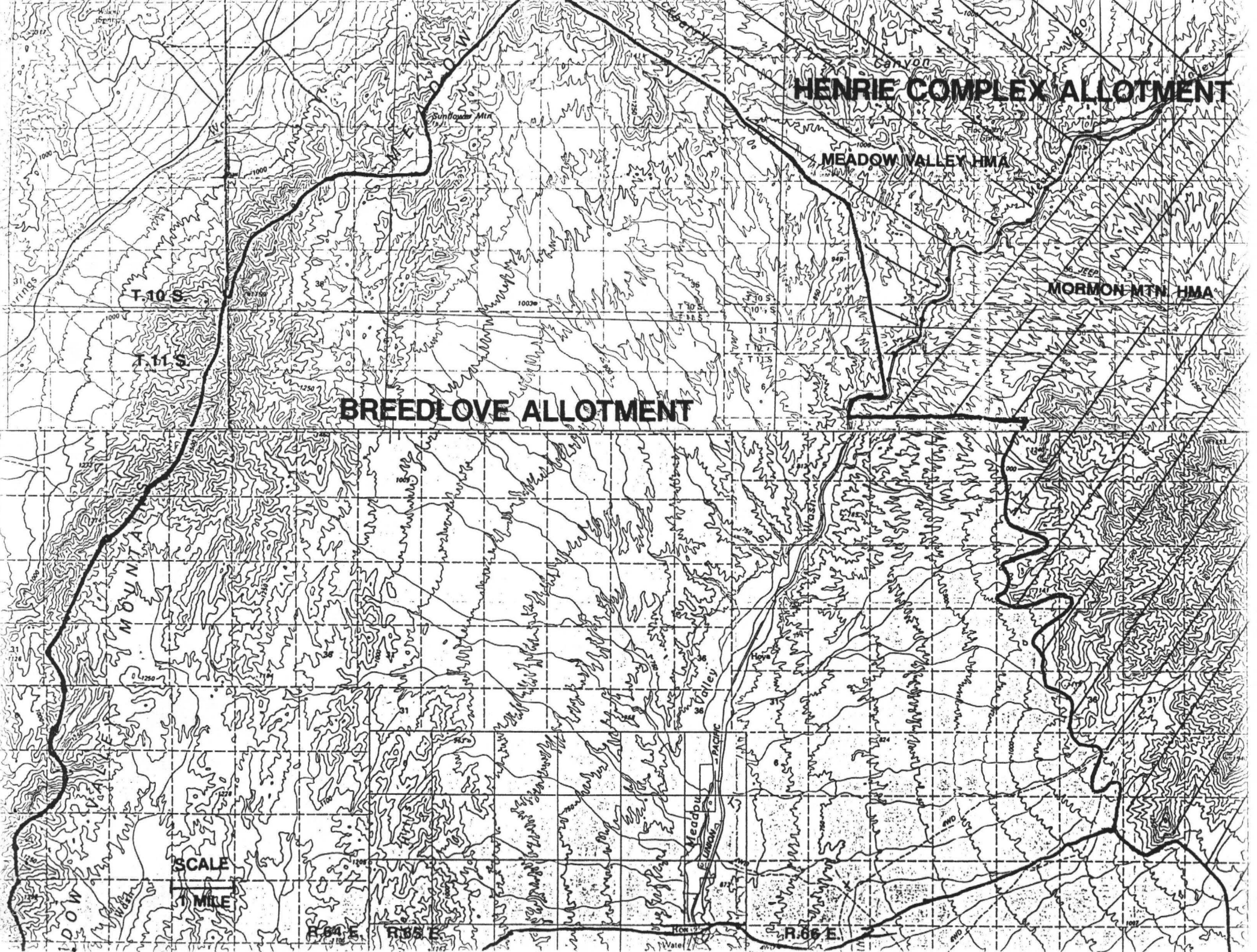
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**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

1105 Terminal Way  
Suite 209

Reno, Nevada 89502  
(702) 688-2626

September 3, 1996

Mr. Gene A. Kolkman  
Ely District  
Bureau of Land Management  
HC 33 Box 33500  
Ely, Nevada 89301-9408

Subject: Meadow Valley HMA - Emergency Gather

Dear Gene:

The Commission for the Preservation of Wild Horses holds an administrative appeal against the previous emergency gather of the Henry Complex Allotment. Our efforts to settle the matter remain unresolved at this time.

Drought conditions now require an emergency gather to save surviving wild horses from imminent death. We support your immediate gather and position to take all horses from the herd management area. It is unfortunate that previous management actions could have prevented either emergency gather.


It is now obvious that the entire Henry Complex or Meadow Valley Herd Management Area is primarily ephemeral range and void of the amount of perennial waters required to support yearlong grazing. In light of biological opinions for desert tortoise, the current drought and the issues of our appeal, the Bureau of Land Management should set forth the processes necessary for a long term solution.

We request an after-the-fact environmental assessment and decision record to immediately address the future management of these resources. It may be necessary to implement the preferred alternative of the Caliente Final Grazing Environmental Impact Statement or amend existing Management Framework Plan Decisions to resolve the ongoing and re-occurring catastrophic events in the ephemeral ranges south of Caliente.

Mr. Gene Kolkman  
September 3, 1996  
Page 2

We support your actions, and perhaps, it is the long term solution for the Meadow Valley Herd Management Area. We rely on your leadership to implement the proper processes to resolve this matter in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb". The signature is written in dark ink and is positioned above the typed name.

CATHERINE BARCOMB  
Executive Direction