



United States Department of the Interior

Bureau of Land Management

Ely Field Office

702 North Industrial Way

H.C. 33 box 33500

Ely, Nevada 89301-9408

In Reply Refer To:

4160

Kevin Olson

Grazing Case File

(NV-045.09)

CERTIFIED MAIL #Z060510433
RETURN RECEIPT REQUESTED

MAR 17 1997

Mailed Mar. 19
Rec'd. Mar 20

FINAL DECISION
RESCINDING NOTICE OF CLOSURE AND
MODIFYING THE GRAZING PERMIT TO OPEN THE
CLOSURE TO LIVESTOCK GRAZING ON THE
HENRIE COMPLEX ALLOTMENT

Kevin D. Olson
P.O. Box 97
Panaca, Nevada 89042

Dear Mr. Olson:

On February 7, 1997, I issued a proposed decision rescinding the Notice of Closure and modifying the grazing permit to open the closure to livestock grazing on the Henrie Complex Allotment. A full force and effect notice of closure was issued on October 7, 1993 closing the burn area to livestock grazing use. The terms and conditions of the grazing decision were made a part of your grazing permit in the terms and conditions.

The Meadow/Pass burn area on the Henrie Complex was closed to grazing with 2,210 AUMS or 69% of active use placed into temporary suspension for the duration of the closure period. The closure was issued for a minimum of two (2) years beginning on November 24, 1993 to protect the soil resources and allow rehabilitation of vegetative resources to occur within the Meadow and Pass burn area.

The grazing decision dated November 24, 1993 identified management actions and resource objectives and criteria to be used to open the fire area and authorize grazing use. The burn management actions and the resource objectives have been met.

On February 27, 1997, I received a letter of protest from the Nevada Commission for the Preservation of Wild Horses. On March 11, 1997, we discussed the letter of protest with a representative of the Nevada Commission for the Preservation of Wild Horses. The Commission is opposed to the issuance of a ten-year permit without the completion and issuance of an allotment evaluation and multiple use decision (MUD). We are currently in the process of completing the interdisciplinary allotment evaluation and MUD and will issue your permit for a period of one year in order to allow for the completion of the evaluation and MUD. I have considered the facts presented in the protest.

Therefore, it is my Final Decision to modify your existing grazing permit rescinding the notice of closure and grazing decision and opening the burn area on the Henrie Complex Allotment to livestock grazing with a modification to your federal grazing permit.

Your federal Grazing Permit for the Henrie Complex Allotment is modified as follows:

FROM:

EXISTING FEDERAL GRAZING PERMIT

11/24/1993 to 02/28/2002

ALLOTMENT NAME	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	BEGIN DATE	END DATE	PERCENT FEDERAL LAND	ACTIVE PREFERENCE AUMS	TEMPORARY SUSPENDED AUMS
Henrie Complex	96	Cattle	03/01	02/28	85	975	2,210

year round permit?

TO:

MODIFIED FEDERAL GRAZING PERMIT

05/01/1997 to 04/30/1998

*2210
975
3185*

ALLOTMENT NAME	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	SEASON OF USE		PERCENT FEDERAL LAND	ACTIVE USE AUMS*
			BEGIN DATE	END DATE		
Henrie Complex	313	Cattle	03/01	02/28	85	3,185

* This is the total number of animal unit months of specified livestock grazing.

Allotment specific terms and conditions for the Henrie Complex are located in Attachment 1.

Authority for this decision is provided in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

4130.2(d): "The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless... the authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management."

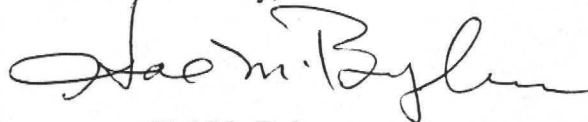
Any person whose interest is adversely affected by this final decision may appeal this decision for the purpose of a hearing before an administrative law judge and in accordance with 4.470, 4160.3(c), and 4160.4. You are provided thirty days after the receipt of this final decision to file an appeal and a petition for stay to Hal M. Bybee, Assistant District Manager, Renewable Resources, Bureau of Land Management, Ely Field Office, HC 33 Box 33500, Ely, Nevada 89301. The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion for stay in accordance with 43 CFR Sec. 4.21(b)(1), the appellant 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.

The appellant requesting the stay bears the burden of proof to demonstrate that a stay should be granted.

Sincerely,



Hal M. Bybee
Assistant District Manager, Renewable Resources

SChristman:sc

Attachment: Terms and Conditions for the Henrie Complex Allotment

cc:

NV-043

Resource Concepts, Inc.

Commission for the Preservation of Wild Horses

Wild Horse Organized Assistance, Inc.

Animal Protection Institute of America

Natural Resources Defense Council

Wilderness Society Regional Associate

U. S. Fish and Wildlife Service

N-5 Grazing Board

Desert Tortoise Council

Nevada Division of Wildlife

National Wild Horse Association

Int'l Society for the Protection of Mustangs and Burros

Lincoln County Public Lands Commission

Lincoln County Commission

Conservation Chair, Sierra Club (Randy Harness)

Certified Mail No. Z060510434

Certified Mail No. Z060510435

Certified Mail No. Z060510436

Certified Mail No. Z060510437

Certified Mail No. Z060510438

Certified Mail No. Z060510439

Certified Mail No. Z060510440

Certified Mail No. Z060510441

Certified Mail No. Z060510442

Certified Mail No. Z060510443

Certified Mail No. Z060510444

Certified Mail No. Z060510445

Certified Mail No. Z060510446

Certified Mail No. Z060510447

Do Not Send Certified

ATTACHMENT 1

SPECIFIC TERMS AND CONDITIONS FOR THE NEW FEDERAL GRAZING PERMIT FOR THE 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 the same as on the previous full force and effect decision Henrie complex Allotment issued January 31, 1992.
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 the full force and effect decision for the Henrie Complex Allotment issued January 31, 1992.

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 I.

^{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 campsites.

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

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.