



## United States Department of the Interior

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In Reply Refer To:  
4110/4160 (NV060)

APR 30 2008

### **DECISION NORTH & SOUTH BUFFALO ALLOTMENT**

#### **NOTICE OF CLOSURE TO LIVESTOCK GRAZING 2007 HORSE FIRE**

Dear Interested Public:

#### **INTRODUCTION**

During the fall of 2007, the Horse Fire burned approximately 5,471 acres of public land in the North and South Buffalo Allotments. Maps 1 and 2 consist of general location of this fire and closure boundary.

North and South Buffalo Allotments are located in the Winnemucca Field Office (WFO). Winnemucca is responsible for Emergency Stabilization and Rehabilitation (ES&R); however, the Mount Lewis Field Office (MLFO) is responsible for grazing administration. MLFO personnel prepared a Resource Advisory report for the WFO. This report consisted of fire severity, dozerlines, burned fences, roads in need of repair, and range types affected by the Horse Fire. After review of this report and field tours, the WFO determined that treatments such as seeding and temporary fencing was not necessary for this fire.

A document of Land Use Plan Conformance and NEPA Adequacy (DNA) has been completed for the Mount Lewis grazing closure of the burn area. The DNA is tiered to the Battle Mountain Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038.

Although seeding treatments will not occur in the Horse fire, rest from livestock grazing is required in order to promote the success of natural recovery of perennial vegetation. The Sonoma-Gerlach Resource Management Framework Plan (MFP) dated 1983 and the Battle Mountain Normal Fire Year Rehabilitation Plan Finding of No Significant Impact/Decision Record dated March 1994 requires that burned areas be rested from livestock grazing for two growing seasons or until vegetative objectives are met. In addition to closing the burned area to livestock grazing, the need to temporarily suspend active use was considered. To determine the need to temporarily suspend Animal Unit Months (AUMs) of active use, the interdisciplinary team considered the treatment type, the amount of use by livestock that the burn area has received, and the suitability of the site for livestock grazing.

## BACKGROUND

The following lists the allotment affected by the Horse fire, the permittees that graze these allotments and permitted livestock as applicable, and the proposed temporary suspension for the Horse fire:

The affected permittees by allotment are as follows:

Allotment	Permittee	Use Area	Permitted Season of Use	Livestock Type	Permitted AUMs	Proposed Temp. AUM Suspension
North Buffalo	Badger Ranch	N/A	03/01-02/28	Cattle	153	0
	Ellison Ranching Co.	N/A	03/01-04/30 & 11/01-02/28	Sheep	1,194	64
	Doby George LLC	N/A	03/01-03/31 & 11/01-02/28	Sheep	2,100	112
South Buffalo	Goemmer Land & Livestock	Buffalo Valley	03/01-04/30 & 08/01-02/28	Cattle	4,685	0

The Horse fire occurred within elevations ranging from 5,000 to 6,000 feet. Perennial species such as crested wheatgrass, Indian ricegrass, bluebunch wheatgrass, bottlebrush squirreltail, and Sandberg's bluegrass was co-dominated with annuals such as cheatgrass and tumble mustard.

On March 24, 2008 the MLFO issued a public consultation letter informing the permittee(s) and interested public of the proposed action to temporarily suspend 176 AUM's and close the burn area from livestock grazing. The public consultation letter provided a 15-day comment period for the permittee(s), interested public, partners, stake holders, and state and local governments to respond to the proposed livestock closures. No comments were received.

## FINAL DECISION

This decision is issued pursuant to 43 CFR 4110.3-3(b)(1)(i)(ii) and is effective upon issuance in accordance with 43 CFR 4110.3-3(b)(2) and 43 CRD 4160.3(c). The Bureau of Land Management has made the determination that vegetation, soil, and other resources on the public lands are at immediate risk of erosion or other damage due to wildfire and the continued grazing use poses an imminent likelihood of significant resource damage.

Therefore, it is my final decision to implement the following actions:

- I. Close the Horse fire burn area within in North and South Buffalo allotments to livestock grazing for a minimum of two growing seasons or until the vegetation objectives specified below are attained. See map 2 for closed area. The closure will be in affect on May 1, 2008.
- II. Temporarily suspend 64 AUM's from Ellison Ranching Co. in North Buffalo Allotment for a minimum of two growing seasons or until vegetation objectives specified below are attained.
- III. Temporarily suspend 112 AUM's from Doby George LLC in North Buffalo Allotment for a minimum of two growing season or until vegetation objectives specified below are attained.
- IV. A temporary suspension of AUM's will not be implemented for Badger Ranch and Goemmer Land and Livestock.

BLM will conduct frequent compliance inspections of the burned areas. If these inspections reveal that grazing use is occurring in the closed areas, further actions will be taken such as closing the entire pasture or use area.

## RATIONALE:

This decision is being issued in full force and effect, in accordance with 4110.3-3(b)(1)(i)(ii), in order to provide an opportunity for the burn area to recover, to allow for the promotion of natural revegetation of perennial species and to limit the likelihood of significant damage to natural resources. The ES&R Interdisciplinary Team has determined that a 176 AUM reduction is needed in the North Buffalo Allotment to promote native release. Although limited use by livestock was noted to occur within the vicinity of the Horse fire, natural water sources such as seeps along with the onslaught of new growth for both annual and perennial grasses in the burn area for the North Buffalo Allotment are of concern; therefore, temporary suspension of AUM's is required. Due to the fact that this burn area will not be fenced and watering sites are available within the vicinity of the burn area, it is necessary to temporarily suspend AUM's for permittees within the North Buffalo Allotment. Reducing AUM's on a temporary basis will provide the opportunity for vegetative communities impacted by the Horse fire to recover without causing additional stress to the rest of the allotment.

The temporary suspension of AUM's for each individual were developed by calculating the active preference associated with the allotment and determining the proportion of that preference designated for each permittee. It was determined that the current stocking rate for the North Buffalo Allotment is approximately 16.4 acres per AUM. With this, it is proposed that 176 AUM's will be suspended as indicated in the above table. The calculations for Badger Ranch was negligible (<10); therefore no AUM's will be proposed to be placed in temporary suspension.

The ES&R Interdisciplinary Team has determined that a temporary suspension is not needed for the South Buffalo Allotment. The South Buffalo Allotment has recently gone through the permit renewal process. Through this process range improvement projects were identified for repair and a temporary suspension of AUM's was implemented for these nonfunctioning projects. The Buffalo Valley Well (RIP #1220) was identified as one of the projects in need of repair before AUM's will be restored. Since AUM's have already been reduced for this project and its affective area, an additional AUM reduction is not necessary. However, the Joe Saval Ranching Co. LLC has repaired the windmill and is currently functional. In order to ensure livestock use does not occur, the current permittee will be required to shut this water off until the area affected by the Horse Fire is re-opened.

The grazing closure conforms to the Sonoma-Gerlach MFP, Battle Mountain Normal Fire Rehabilitation Plan EA# NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated March 1994.

### **Vegetation Objectives/Criterion for Reintroduction of Livestock**

#### **1. Native Release**

Achieve a minimum of three perennial grasses per 3 foot square plot firmly rooted in the soil along a 100 foot transect.

Monitoring data of past fires indicate that achieving the minimum occurrence of perennial species listed in the above objective is an indication that sufficient root systems and above ground biomass occur at the site. Adequate root systems and above ground biomass, as brought forward in the vegetation objectives will limit redistribution and loss of soil reserves, will limit invasive weed components within the understory, and will allow for adequate production of forage to allow livestock grazing to resume without affecting the continued recovery of the burn area.

If the establishment criteria are not met by the end of the second growing season of the grazing closure, these burned areas will be evaluated for the potential to meet the criteria. Some of the factors to be considered in this evaluation will be: the relationship between the native release of pre-existing plants and seeded species as it pertains to site stability, the amount of total precipitation, amount of growing season precipitation, how close to meeting the establishment criteria is at the end of the first and second growing seasons, and what benefits, if any, additional growing season of rest might provide.

**DECISION AUTHORITY:** The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§4110.3-3(b)(1): After consultation with, or a reasonable attempt to consult with, affected permittees or lessees and the state having lands or responsible for managing resources within the area, the authorized officer will close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section when the authorized officer determines and documents that –

- (i) The soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation; or,
- (ii) Continued grazing use poses an imminent likelihood of significant resource damage.

§4160.3(c): Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §§ 4110.3-3(b), 4150.2(d), or 4190.1(a). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals, the Interior Board of Land Appeals, or an administrative law judge to provide that the decision becomes effective immediately as provided in §§ 4.21(a)(1) and 4.479(c) of this title.

## **APPEAL PROVISIONS**

In accordance with 43 CFR 4.470, and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.4, an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer, Douglas W. Furtado, Mount Lewis Field Manager at 50 Bastian Road Battle Mountain, NV 89820. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

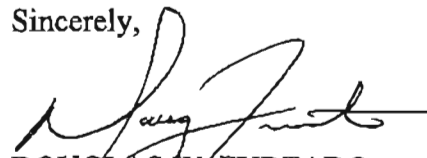
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,



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Field Manager  
Mount Lewis Office

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Dan Filippini  
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Reed Clark  
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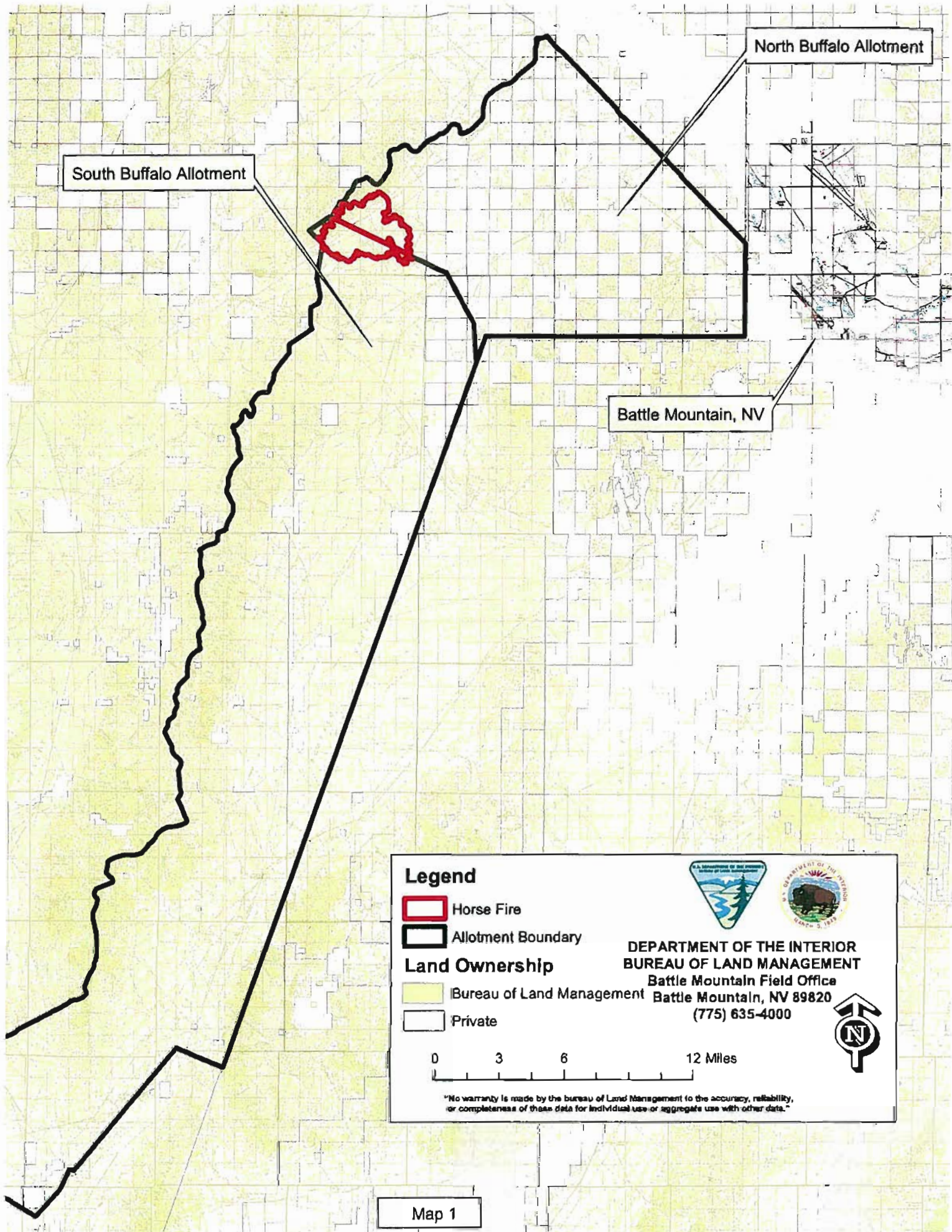
Mandy McNitt  
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Carson City NV 89706

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Las Vegas NV 89104



Pershing County Commissioner  
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# MAPS





South Buffalo Allotment



North Buffalo Allotment



Battle Mountain, NV

**Legend**

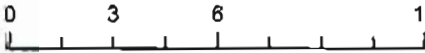

-  Horse Fire
-  Allotment Boundary

**Land Ownership**

-  Bureau of Land Management
-  Private

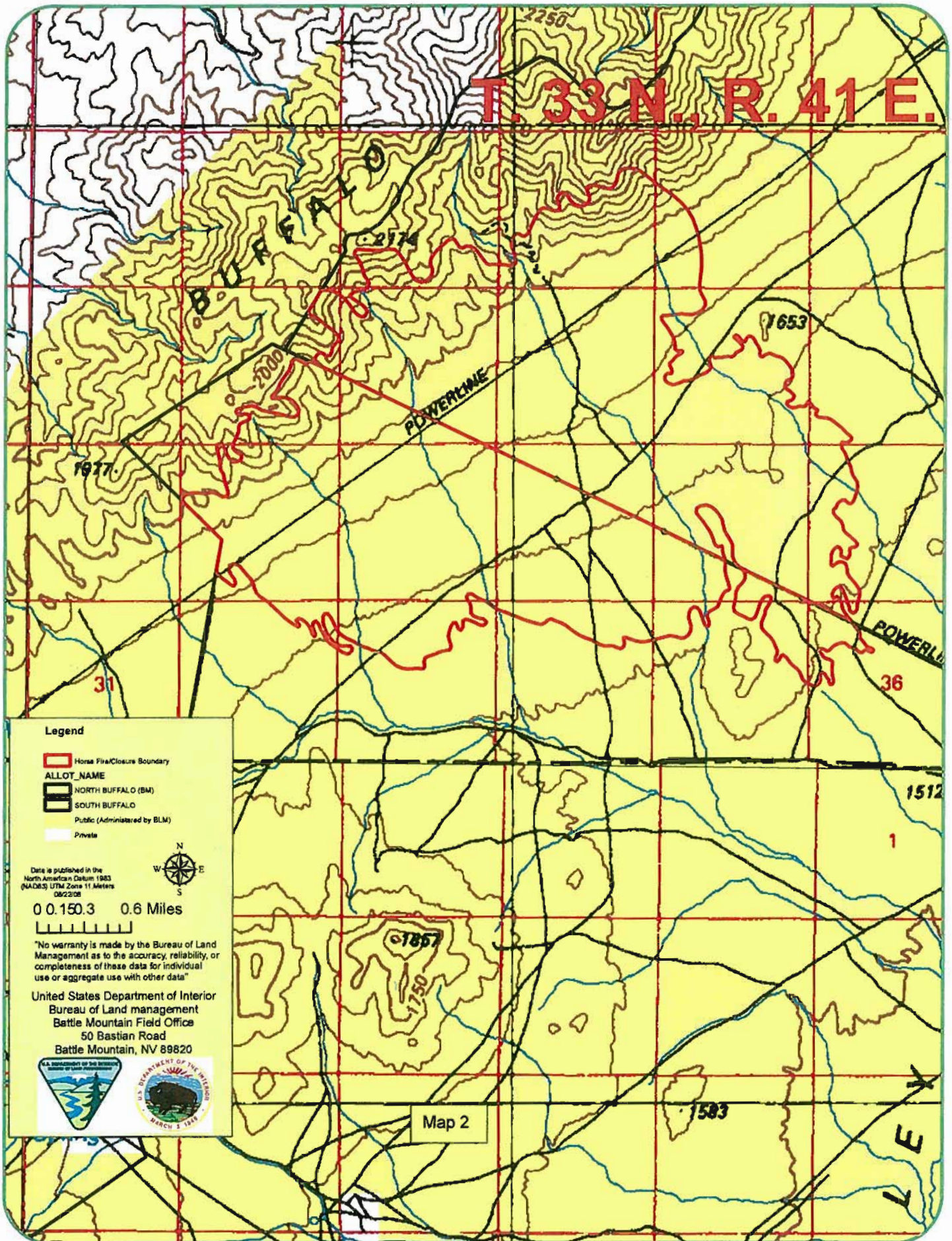



DEPARTMENT OF THE INTERIOR  
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Map 1








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BUFFALO

POWERLINE

POWERLINE

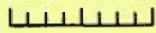
Legend

-  Horse Fire/Closure Boundary
- ALLOT\_NAME
-  NORTH BUFFALO (BM)
-  SOUTH BUFFALO
-  Public (Administered by BLM)
-  Private

Date is published in the North American Datum 1983 (NAD83) UTM Zone 11 Aleutians 08/22/08



0 0.150.3 0.6 Miles



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United States Department of Interior  
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Map 2

LEY