



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
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In Reply Refer To:  
4110/4160/4190 (NV060)

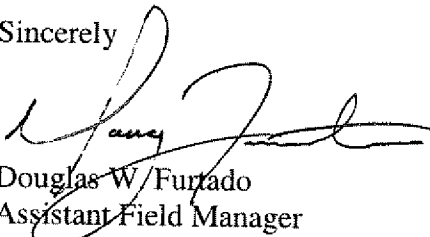
DEC 21 2007

Dear Interested Public

Enclosed are copies of the Wildfire Management and Livestock Closure Decisions associated with the 2007 fire season for those allotments in which you have requested to be an interested public.

If you have any further questions, please contact Michele McDaniel, Range Team Lead, at (775) 635-4083.

Sincerely



Douglas W. Furtado  
Assistant Field Manager  
Renewable Resources

Enclosures

RECEIVED  
DEC 24 2007  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET AND PLANNING DIVISION



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
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DEC 21 2007

CERTIFIED RECEIPT:  
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**WILDFIRE MANAGEMENT DECISION  
and  
NOTICE OF CLOSURE TO LIVESTOCK GRAZING  
2007 CARICO FIRE  
BATTLE MOUNTAIN FIELD OFFICE**

During the summer of 2007, the Battle Mountain Field Office (BMFO) experienced six large fires in need of emergency stabilization and rehabilitation. The Carico Fire burnt a total of 3,281 acres of public land within the Carico Lake Allotment. This decision will implement the emergency stabilization/rehabilitation (ES&R) treatments and grazing closures for the Carico Fire (see attached maps for the burn area and treatment locations).

### **BACKGROUND**

Emergency Stabilization and Rehabilitation (ES&R) plans were developed through an interdisciplinary approach to determine needed treatments to minimize threats to life or property, to stabilize and prevent unacceptable degradation to critical cultural and natural resources that would not recover naturally, and to establish a healthy, stable ecosystem in which native species are well represented. The 2007 fires impacted various natural resource values including crucial sage grouse and other wildlife habitat, forest and woodland ecosystems, and forage for wild horses and livestock. These fires also increase the potential of reducing ecological condition by increasing the potential of wind and water erosion and facilitating the spread of non-native invasive and/or noxious weed species.

Non-native invasive and/or noxious weed inventory will occur within the burn area for the Carico Fire. If it is determined that noxious weed treatment is required, the BMFO will take the appropriate steps for site specific authorization of the weed treatments. The permittees and interested publics will be notified prior to the implementation of weed treatments.

In order to promote the success of ES&R vegetation treatments and/or natural recovery of perennial vegetation, rest from livestock grazing is required. The Shoshone-Eureka Resource

Management Plan (RMP) Record of Decision dated February 1986 and the BMFO 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 burned areas 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 burned areas have received, and the suitability of the sites for livestock grazing.

On November 8<sup>th</sup>, 2007, the BMFO sent out the public consultation letter for all of the 2007 fires that affected the allotments administered by the BMFO. This consultation letter was issued for a 15-day comment period and discussed the proposed ES&R treatments for each burn area, grazing closures, temporary suspension of AUMs, and the recommendations for the vegetative objectives/criterion for reintroduction of livestock to the burn areas. The letter served as the opportunity for the interested public, partners, stake holders, along with state, local and tribal governments to provide comments to the ES&R projects that had been developed by the BMFO ES&R interdisciplinary team.

At the conclusion of the comment period, we received comments from the Nevada Natural Heritage Program. The Nevada Natural Heritage Program requested that Palmer penstemon (*Penstemon palmeri* var. *palmeri*) not be used within the seed mixes for treatment areas. Palmer penstemon has not been proposed to be within the stabilization or rehabilitation seed mixes for all of the treatment areas for the burns.

Therefore, after carefully considering the comments submitted by the interested public, it is my decision to implement the management actions identified below for Wildfire Management and Grazing Closures for the Carico Fire:

## **WILDFIRE MANAGEMENT DECISION**

This decision is issued under 43 CFR 4190.1 and is effective upon issuance. The Bureau of Land Management, Battle Mountain Field Office, 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 the effects of the 2007 wildfires.

### **Aerial Seeding**

Two seed mixes will be utilized to aerially seed a total of 2,168 acres of public land to establish vegetation that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by the Carico Fire. Forage kochia will be utilized to stabilize 1,593 acres of the burn area. A seed mix consisting of Basin wildrye, stream bank wheatgrass, and western wheatgrass will be utilized to stabilize 575 acres within a drainage that occurs within the burn perimeter. Seed will be applied using a helicopter in the winter months to take advantage of available soil moisture. Please refer to Map 1 for aerial seeding locations.

## **RATIONALE**

This decision is issued as Full Force in Effect, in accordance with 43 CFR 4190.1, to allow the timely implementation of treatments within a time frame consistent with the urgent nature of burned area stabilization and rehabilitation to mitigate the effects of wildfire and fire suppression activities on natural resources. Such resources include wildlife habitat, forest and woodland ecosystems, forage for wildlife, wild horses, and livestock, soil structure, and life and property.

Analysis of the burned area and the associated range sites was completed to determine the suitability and location of seeding treatments. Aerial seeding is required for the ES&R seeding treatments within the Carico Fire due to steep and rocky terrains that results in limited accessibility to rangeland drills along with the application method recommended for certain species such as forage kochia. Seed mixes selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by the fires.

Forage kochia will be utilized in order to provide stabilization to less productive range sites that were impacted by the Carico Fire along with rehabilitation of wildlife habitat that will not be able to recover naturally. Forage kochia will also be used to aid in limiting the invasion of cheatgrass, which was present in the understory prior to the fire. The seed mix consisting of Basin wildrye, stream bank wheatgrass, and western wheatgrass will provide a native seed mix to stabilize drainage areas within the Carico Fire. If the treatment is successful, these species will limit additional resource damage and/or loss by reducing the occurrence and severity of run-off events. Literature, research and implementation of previous Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) plans have shown success with the timing and application methods utilized to implement the seeding treatments. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor.

Pursuant to Section 106 of the national Historic Preservation Act, the lead Federal agency is required to take historic properties into account prior to implementing Federal Undertakings. Cultural resource inventories will be conducted on areas proposed for ground disturbing stabilization treatment (temporary fence construction, drill seeding, etc.). These inventories will be conducted prior to implementation of the proposed treatments in order to identify and avoid cultural resources determined by the BLM to be eligible for the National Register.

The proposed action conforms to the Shoshone-Eureka Resource Management Plan (RMP), as amended, the Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated March 1994 and the Northeastern Great Basin Resource Area Council's (RAC) Standards and Guidelines. The proposed treatments are specifically accounted for in the Normal Fire Rehabilitation Plan and the Northeastern Great Basin RAC Standards and Guidelines Appendix A – Vegetation Guidelines.

### **Monitoring:**

Through the development of the Emergency Stabilization and Burned Area Rehabilitation Plans, the BMFO ES&R interdisciplinary team has recommended vegetation treatments to stabilize soils, prevent the invasion of non-native invasive and/or noxious weed species, and to re-introduce vegetative species to the range sites. Monitoring will be completed to analyze



effectiveness and success of these treatments. Weed inventories will also occur throughout the monitoring period to determine if treatment of noxious weeds within the burn areas is necessary.

All vegetation treatments will be monitored for effectiveness using point-intercept and frame density techniques as outlined in BLM Technical Reference 1734-4 (BLM 1999) to determine cover and density of seeded and non-seeded species during the three years following treatment implementation. Monitoring will be oriented toward addressing the following questions: 1) Have the desirable species been successfully established and do they provide sufficient cover to adequately protect the site from soil erosion? 2) Is there evidence that a self-sustaining community has established? and 3) Are vegetative reproduction and establishment of the desirable species occurring? Permanent representative monitoring sites will be established to monitor density and cover of the seeded species, native release, along with noxious and/or invasive weed encroachment. When possible, all monitoring sites will have adjacent, non-treated reference sites established to compare results of treatments. Density and cover measurements will be utilized to determine the effectiveness of ground and aerial seeding treatments. The objectives for density will be to obtain three plants per 3' square plot along the 100' transect. The objectives for cover will be to obtain 75% of perennial plant cover associated with the reference area if it is found that an adjacent reference site is available for comparison. When it is not possible to use adjacent reference sites to compare density and cover, the BMFO will utilize the appropriate ecological or range site. These objectives have been found to be appropriate by the BMFO ES&R interdisciplinary team for a low production 5-8" precipitation zone. Vegetation treatment monitoring will be conducted by the BMFO monitoring staff during late spring to early summer, following florescence for accurate identification of species.

**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:

**§4190.1 Effect of wildfire management decisions.**

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and
- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

**APPEAL PROVISIONS**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Douglas Furtado, Assistant Field Manager, Renewable Resources, within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior  
 Office of the Secretary  
 Board of Land Appeals  
 4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) **4190.1 (a)** for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE U.S. Department of the Interior  
 NOTICE OF APPEAL . . . . Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820

SOLICITOR U.S. Department of the Interior  
 ALSO COPY TO. . . . Office of the Field Solicitor  
 Pacific Southwest Region  
 2800 Cottage Way, Room E-1712  
 Sacramento, CA 95825

A petition for a stay of a decision pending appeal 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.

## **GRAZING CLOSURE 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 CFR 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:

1. Close the burned areas within the Carico Lake Allotment impacted by the Carico fire (Refer to Map 2 for fire closure areas) for two growing seasons or until vegetation objectives specified below are attained. The closure will be in affect on March 1<sup>st</sup>, 2008.

## **RATIONALE:**

This decision is being issued in Full Force in 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 successful establishment of seeding treatments and to limit the likelihood of significant damage to natural resources. Rest from livestock grazing is required in order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the affects of the burn prior to the re-introduction of livestock grazing. The growing season for key perennial grasses in the burned area approximately begins in April and ends in August depending upon the year and the species type.

The Carico Fire occurred primarily within the Toiyabe Mountain Use Area. The affected permittee for the Carico Fire is C Ranches. Due to the location of this fire, which includes steep terrain and pinyon juniper woodlands, the BMFO will close the area to grazing for two growing seasons or until vegetative objectives are attained without a temporary suspension in AUMs.

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

#### **1. Aerial Seeding Treatments**

Achieve a minimum of two plants per 3 foot square plot along a 100 foot transect for the lower elevation, less productive range sites and four plants per 3 foot square plot along the 100 foot transect on upper elevation, higher productive range sites.

Achieve a minimum of 75% of the vegetative cover (basal and canopy) for perennial species relative to the site potential as indicated by the appropriate ecological site.

Achieve total dry weight production rates for seeded and unseeded species (minus annual species) that corresponds to the range site description and to the given precipitation year (i.e. normal and unfavorable years).

#### **2. Native Release**

Total dry weight production of perennial herbaceous species in burned areas must equal or exceed the herbaceous production on nearby unburned areas in the same or similar ecological sites.

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, an additional growing season of rest might provide.

Monitoring will be conducted annually following the growing season. Permanent monitoring sites will be established in 2008. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

**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, Assistant Field Manager for Renewable Resources 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:

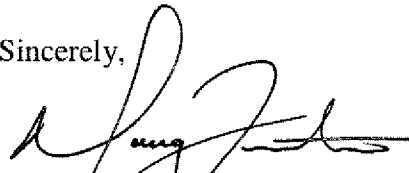
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

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,



DOUGLAS W. FURTADO  
Assistant Field Manager  
Renewable Resources

Enclosure(s)

cc: Interested Public

John Filippini  
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Norman K. Sharp  
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National Mustang Association  
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Wild Horses Organized Assistance  
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Winnemucca Colony  
Chairman  
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Winnemucca, NV 89446

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Dallas Smales  
Summit Lake Paiute Tribe  
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Winnemucca, NV 89466

Pat Stevens  
Te-Moak Tribal Council  
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Elko, NV 89801

Jerry Todd  
P.O. Box 73  
Eureka, NV 89316

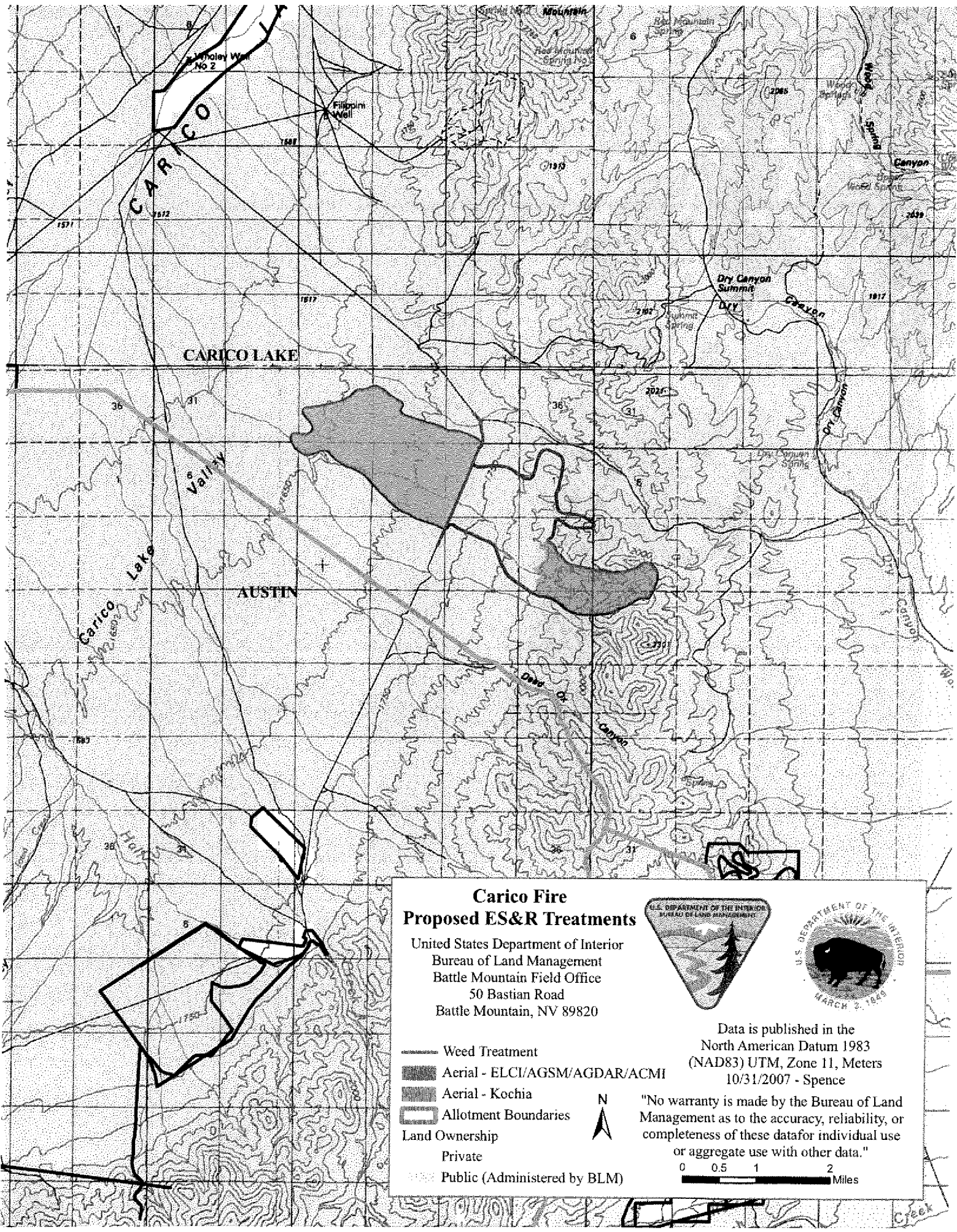
Michael Young, Chair Battle Mountain Band Council  
37 Mountain View Dr Suite C  
Battle Mountain, NV 89820

Chairman Lovelock Paiute Tribe  
PO Box 878  
Lovelock, NV 89419

Davis Gonzales  
Te-Moak Tribal Council  
525 Sunset Street  
Elko, NV 89801

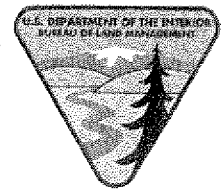
Laurel Marshall  
P.O. Box 462  
Eureka, NV 89316





### Carico Fire Proposed ES&R Treatments

United States Department of Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820

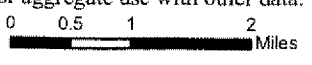


- Weed Treatment
- Aerial - ELCI/AGSM/AGDAR/ACMI
- Aerial - Kochia
- Allotment Boundaries
- Land Ownership
  - Private
  - Public (Administered by BLM)

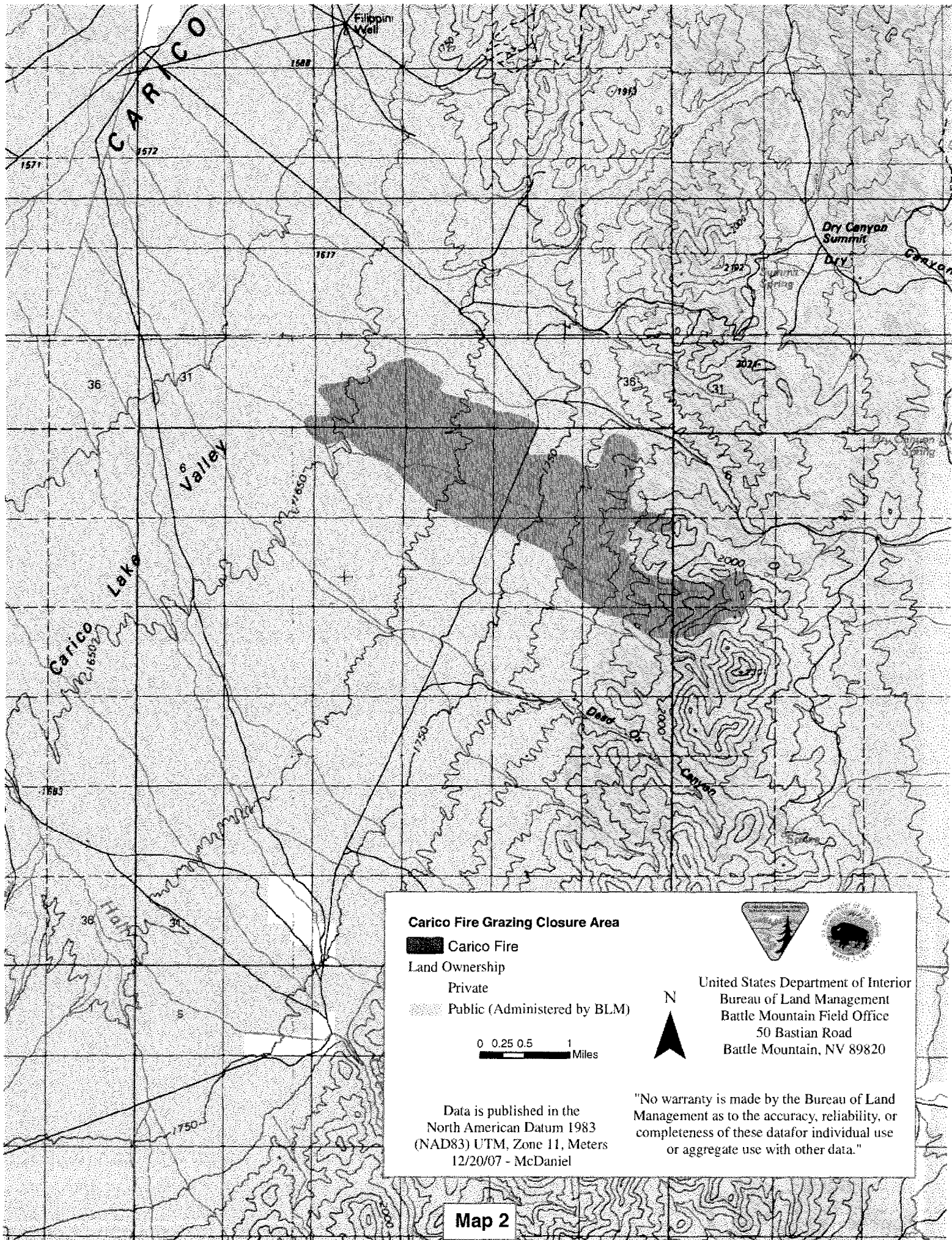


Data is published in the  
North American Datum 1983  
(NAD83) UTM, Zone 11, Meters  
10/31/2007 - Spence

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."



MAP 1



Map 2



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, Nevada 89820  
Phone: 775-635-4000 - Fax: 775-635-4034  
<http://www.nv.blm.gov/battlemountain>  
or [bmfoweb@nv.blm.gov](mailto:bmfoweb@nv.blm.gov)



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CERTIFIED RECEIPT:  
RETURN RECEIPT REQUESTED

DEC 21 2007

### WILDFIRE MANAGEMENT AND LIVESTOCK CLOSURE DECISION 2007 CAIN FIRE

#### INTRODUCTION

During the summer of 2007, the Battle Mountain Field Office (BMFO) experienced six large fires in need of emergency stabilization and rehabilitation. The Cain Fire burnt a total of 25,172 acres of public land, of which 6,079 acres occurred within the Cottonwood Allotment, 4,836 acres occurred within the Gilbert Creek Allotment, and 14,475 acres occurred within the Hole in the Wall Allotment. This decision will implement the emergency stabilization/rehabilitation (ES&R) treatments and grazing closures for the portions of the Cain Fire that occurred within the Cottonwood and Gilbert Creek Allotment (see attached maps for the burn area and treatment locations). Through a Memorandum of Understanding (MOU) between the BMFO, Winnemucca Field Office (WFO), and Carson City Field Office (CCFO), WFO will be responsible for issuance of a consultation letter and grazing closure decision for the Hole in the Wall Allotment.

#### BACKGROUND

Emergency Stabilization and Rehabilitation (ES&R) plans were developed through an interdisciplinary approach to determine needed treatments to minimize threats to life or property, to stabilize and prevent unacceptable degradation to critical cultural and natural resources that would not recover naturally, and to establish a healthy, stable ecosystem in which native species are well represented. The 2007 fires impacted various natural resource values including crucial sage grouse and other wildlife habitat, forest and woodland ecosystems, and forage for wild

horses and livestock. These fires also increase the potential of reducing ecological condition by increasing the potential of wind and water erosion and facilitating the spread of non-native invasive and/or noxious weed species.

Non-native invasive and/or noxious weed inventory will occur within the burn area for the Cain Fire. If it is determined that noxious weed treatment is required, the BMFO will take the appropriate steps for site-specific authorization of the weed treatments. The permittees and interested publics will be notified prior to the implementation of weed treatments.

In order to promote the success of ES&R vegetation treatments and/or natural recovery of perennial vegetation, rest from livestock grazing is required. The Shoshone-Eureka Resource Management Plan (RMP) Record of Decision dated February 1986 and the BMFO 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 burned areas 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 burned areas have received, and the suitability of the sites for livestock grazing.

On November 8<sup>th</sup>, 2007, the BMFO sent out the public consultation letter for all of the fires that affected the allotments administered by the BMFO. This consultation letter was issued for a 15-day comment period and discussed the proposed ES&R treatments for each burn area, grazing closures, temporary suspension of AUMs, and the recommendations for the vegetative objectives/criterion for reintroduction of livestock to the burn areas. The letter served as the opportunity for the interested public, partners, stake holders, along with state, local and tribal governments to provide comments to the ES&R projects that had been developed by the BMFO ES&R interdisciplinary team.

At the conclusion of the comment period, we have received comments from the Nevada Natural Heritage Program. The Nevada Natural Heritage Program requested that Palmer penstemon (*Penstemon palmeri* var. *palmeri*) not be used within the seed mixes for treatment areas. Palmer penstemon has not been proposed to be within the stabilization or rehabilitation seed mixes for all of the treatment areas for the burns.

Therefore, after carefully considering the comments submitted by the interested public, it is my decision to implement the management actions identified below for Wildfire Management and Grazing Closures for the Cain Fire:

### **WILDFIRE MANAGEMENT DECISION**

This decision is issued under 43 CFR 4190.1 and is effective upon issuance. The Bureau of Land Management, Battle Mountain Field Office, 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 the effects of the 2007 wildfires.



**Aerial Seeding:**

Aerial seed approximately 1,593 acres of the valley bottoms within the Cain Fire with forage kochia in order to prevent further invasion of cheatgrass within the understory. Seeding treatments will be applied using a helicopter in the winter months to take advantage of available soil moisture. Refer to Map 1 for aerial seeding treatments.

**Temporary Fence:**

Construct approximately 6 miles of temporary fence around a portion of the seeding treatment and native release to protect these portions of the burn from livestock grazing. Refer to Map 1 for the location of the protective fence.

**RATIONALE:**

This decision is issued as Full Force in Effect, in accordance with 43 CFR 4190.1, to allow the timely implementation of treatments within a time frame consistent with the urgent nature of burned area stabilization and rehabilitation to mitigate the effects of wildfire and fire suppression activities on natural resources. Such resources include wildlife habitat, forest and woodland ecosystems, forage for wildlife, wild horses, and livestock, soil structure, and life and property. Implementation of the treatments for the Cain Fire will protect potential invasion and establishment of invasive and/or noxious weeds, provide quality forage for livestock and wildlife, and facilitate meeting the Northeastern Great Basin Area Resource Advisory Council's (RAC) Standards and Guidelines.

Analysis of the burned area and the associated range sites was completed to determine the suitability and location of the aerial seeding treatments. Seed selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by the fires. Forage kochia was chosen for this site due to the location of the seeding, which occurs in lower elevation, low producing sites that are readily invaded by cheatgrass when events such as wildfire degrade the vegetative communities. In order to increase the likelihood of successes, the seeding treatments will occur within the winter months in order to take advantage of available soil moisture. Research and implementation of previous Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) plans has shown success with the timing and application methods that will be utilized to implement the seeding treatments. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor.

The proposed action conforms to the Shoshone-Eureka Resource Management Plan (RMP), as amended, the Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated march 1994 and the Northeastern Great Basin Resource Area Council's (RAC) Standards and Guidelines. The proposed treatments are specifically accounted for in the Normal Fire Rehabilitation Plan and the Northeastern Great Basin RAC Standards and Guidelines Appendix A – Vegetation Guidelines.

### **Monitoring:**

Through the development of the Emergency Stabilization and Burned Area Rehabilitation Plans, the BMFO ES&R interdisciplinary team has recommended vegetation treatments to stabilize soils, prevent the invasion of non-native invasive and/or noxious weed species, and to re-introduce vegetative species to the range sites. Monitoring will be completed to analyze effectiveness and success of these treatments. Weed inventories will also occur throughout the monitoring period to determine if treatment of noxious weeds within the burn areas is necessary.

All vegetation treatments will be monitored for effectiveness using point-intercept and frame density techniques as outlined in BLM Technical Reference 1734-4 (BLM 1999) to determine cover and density of seeded and non-seeded species during the three years following treatment implementation. Monitoring will be oriented toward addressing the following questions: 1) Have the desirable species been successfully established and do they provide sufficient cover to adequately protect the site from soil erosion? 2) Is there evidence that a self-sustaining community has established? and 3) Are vegetative reproduction and establishment of the desirable species occurring? Permanent representative monitoring sites will be established to monitor density and cover of the seeded species, native release, along with noxious and/or invasive weed encroachment. When possible, all monitoring sites will have adjacent, non-treated reference sites established to compare results of treatments. Density and cover measurements will be utilized to determine the effectiveness of ground and aerial seeding treatments. The objectives for density will be to obtain three plants per 3' square plot along the 100' transect. The objectives for cover will be to obtain 75% of perennial plant cover associated with the reference area if it is found that an adjacent reference site is available for comparison. When it is not possible to use adjacent reference sites to compare density and cover, the BMFO will utilize the appropriate ecological or range site. These objectives have been found to be appropriate by the BMFO ES&R interdisciplinary team for a low production 5-8" precipitation zone. Vegetation treatment monitoring will be conducted by the BMFO monitoring staff during late spring to early summer, following florescence for accurate identification of species.

**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:

#### **§4190.1 Effect of wildfire management decisions.**

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and

- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

### APPEAL PROVISIONS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Douglas Furtado, Assistant Field Manager, Renewable Resources, within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior  
Office of the Secretary  
Board of Land Appeals  
4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) **4190.1 (a)** for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE U.S. Department of the Interior  
NOTICE OF APPEAL. . . . Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820

SOLICITOR U.S. Department of the Interior  
ALSO COPY TO. . . . Office of the Field Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825

A petition for a stay of a decision pending appeal 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.

### **GRAZING CLOSURE 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 CFR 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:

1. Close the burned areas within the Gilbert Creek and Cottonwood Allotments impacted by the Cain Fire (refer to Map 2 for fire closure areas) for two growing seasons or until vegetation objectives specified below are attained. The closure will be in affect on March 1<sup>st</sup>, 2008.
2. Temporarily suspend 291 AUMs associated with Bertrand & Jill Paris' permitted use for the Cottonwood Allotment for two growing seasons or until vegetation objectives specified are attained.
3. Temporarily suspend 56 AUMs associated with Ellison Ranching Company's permitted use for the Cottonwood Allotment for two growing seasons or until vegetation objectives specified are attained.
4. Temporarily suspend 225 AUMs associated with Ellison Ranching Company's permitted use for the Gilbert Creek Allotment for two growing seasons or until vegetation objectives specified are attained.

### **RATIONALE:**

This decision is being issued in Full Force in 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 successful establishment of seeding treatments and to limit the likelihood of significant damage to natural resources. Rest from livestock grazing is required in order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the affects of the burn prior to the re-introduction of livestock grazing. The



growing season for key perennial grasses in the burned area approximately begins in April and ends in August depending upon the year and the species type.

The AUMs placed in temporary suspension for the Cottonwood Allotment were developed by calculating the active preference associated with the allotment and determining the proportion of that preference is associated with Bertrand & Jill Paris and Ellison Ranching Company. It was determined that the current stocking rate for the Cottonwood Allotment is approximately 17.5 acres per AUM. The entire burn area was considered to be available for grazing, which consisted of 6,079 acres within the Cottonwood Allotment. Therefore, a total of 347 AUMs are unavailable due to the fire closure associated with this portion of the Cottonwood Allotment.

For the Gilbert Creek Allotment, it was determined that 225 AUMs will be placed in temporary suspension for Ellison Ranching Company. The burn impacted the Ellison Ranching Company use area which was established through the October 5<sup>th</sup>, 2007 Final Grazing Decision. The AUMs to be placed in temporary suspension are based on the current stocking rate for the Ellison Ranching Company use area. Currently, the stocking rate for this use area is approximately 21.5 acres per AUM. A total of 4,836 acres of the Gilbert Creek Allotment has been affected by the Cain Fire and associated treatments. Therefore, it was derived that a total of 225 AUMs will be appropriate for the protection of vegetative resources outside the burn area.

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

#### **1. Aerial Seeding Treatments**

Achieve a minimum of two plants per 3 foot square plot along a 100 foot transect for the lower elevation, less productive range sites and four plants per 3 foot square plot along the 100 foot transect on upper elevation, higher productive range sites.

Achieve a minimum of 75% of the vegetative cover (basal and canopy) for perennial species relative to the site potential as indicated by the appropriate ecological site.

Achieve total dry weight production rates for seeded and unseeded species (minus annual species) that corresponds to the range site description and to the given precipitation year (i.e. normal and unfavorable years).

#### **2. Native Release**

Total dry weight production of perennial herbaceous species in burned areas must equal or exceed the herbaceous production on nearby unburned areas in the same or similar ecological sites.

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, an additional growing season of rest might provide.

Monitoring will be conducted annually following the growing season. Permanent monitoring sites will be established in 2008. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

**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, Assistant Field Manager for Renewable Resources 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,



DOUGLAS W. FURTADO  
Assistant Field Manager  
Renewable Resources

Enclosure(s)

cc: Interested Public

American Horse Protection Assoc.  
1000 29th St.NW, Suite T-100  
Washington, DC 20007

Clarinda Oppenheim  
Battle Mountain Band Council  
37 Mountain View Dr Suite C  
Battle Mountain, NV 89820

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Conservation Research Center  
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Annette George  
Duckwater Shoshone Tribe  
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Duckwater, NV 89314

Bill Hall  
Ellision Ranching Co.  
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Tuscarora, NV 89834

Eureka County Commissioners  
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Eureka, NV 89316

William J Gandolfo  
Gandolfo Ranch  
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Austin, NV 89310

Lander County Commissioners  
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Battle Mountain, NV 89820

National Mustang Association  
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Cedar City, UT 84721

Cathy Barcomb  
Nevada Commission for Preservation of Wild Horses  
885 E Lake Blvd  
Carson City, NV 89704

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Animal Welfare Institute  
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Egg Harbor Township, NJ 08234

Michael Young, Chair  
Battle Mountain Band Council  
37 Mountain View Dr Suite C  
Battle Mountain, NV 89820

Maurice Frank Churchill  
Duckwater Shoshone Tribe  
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Duckwater, NV 89314

Ruby Sam, Chair  
Duckwater Shoshone Tribe  
PO Box 140068  
Duckwater, NV 89314

Jim Gardner  
Ellison Ranching Company  
HC 61 Box 191  
Battle Mountain, NV 89822

Hank Filippini  
Filippini Ranching Company  
HC 61 Box 70  
Battle Mountain, NV 89820

Mike Marvel  
Joint Ventured Co-Partnership  
PO Box 1194  
Battle Mountain, NV 89820

Chairman  
Lovelock Paiute Tribe  
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Lovelock, NV 89419

Meghan Wereley  
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Elko, NV 89803

Mike Podborny  
Nevada Department of Wildlife  
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Nevada Department of Wildlife  
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Reno, NV 89512

Steve Foree, Supervisory Habitat Biologist  
Nevada Department of Wildlife Eastern Region  
60 Youth Center Road  
Elko, NV 89801

Nye County Commissioners  
PO Box 153  
Tonopah, NV 89060

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Austin, NV 89310

Dallas Smales  
Summit Lake Paiute Tribe  
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Winnemucca, NV 89466

Pat Stevens  
Te-Moak Tribal Council  
525 Sunset Street  
Elko, NV 89801

Timbisha Shoshone Tribe  
PO Box 206  
Death Valley, CA 92328

District Ranger  
USDA Forest Service Austin District  
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Austin, NV 89310

Dawn Lappin  
Wild Horses Organized Assistance  
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Reno, NV 89504

Dennis Bill, Chair  
Yomba Shoshone Tribe  
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Austin, NV 89310

Larry Teske, Biologist  
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Battle Mountain, NV 89820

Krista Coulter  
Nevada State Clearing House  
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Carson City, NV 89701

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O'Toole Ranches  
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Austin, NV 89310

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Stone Cabin Ranch LTD  
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Bishop, CA 93514

U.S. Fish and Wildlife Service  
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Reno, NV 89502

Katie Fite, Biodiversity Director  
Western Watersheds Project  
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Boise, ID 83701

Chairman  
Winnemucca Colony  
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Winnemucca, NV 89446

Kenny Smith  
Yomba Shoshone Tribe  
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Austin, NV 89310

Joe B. Fallini, JR.  
HC 76 Box 1100  
Tonopah, NV 89049

Cindy MacDonald  
3605 Silver Sand Ct  
N. Las Vegas, NV 89032

Bertrand and Jill Paris  
674 Wilson Ave.  
Battle Mountain, NV 0

Charles W. Parsons  
HC 31 Box 9  
Austin, NV 89310

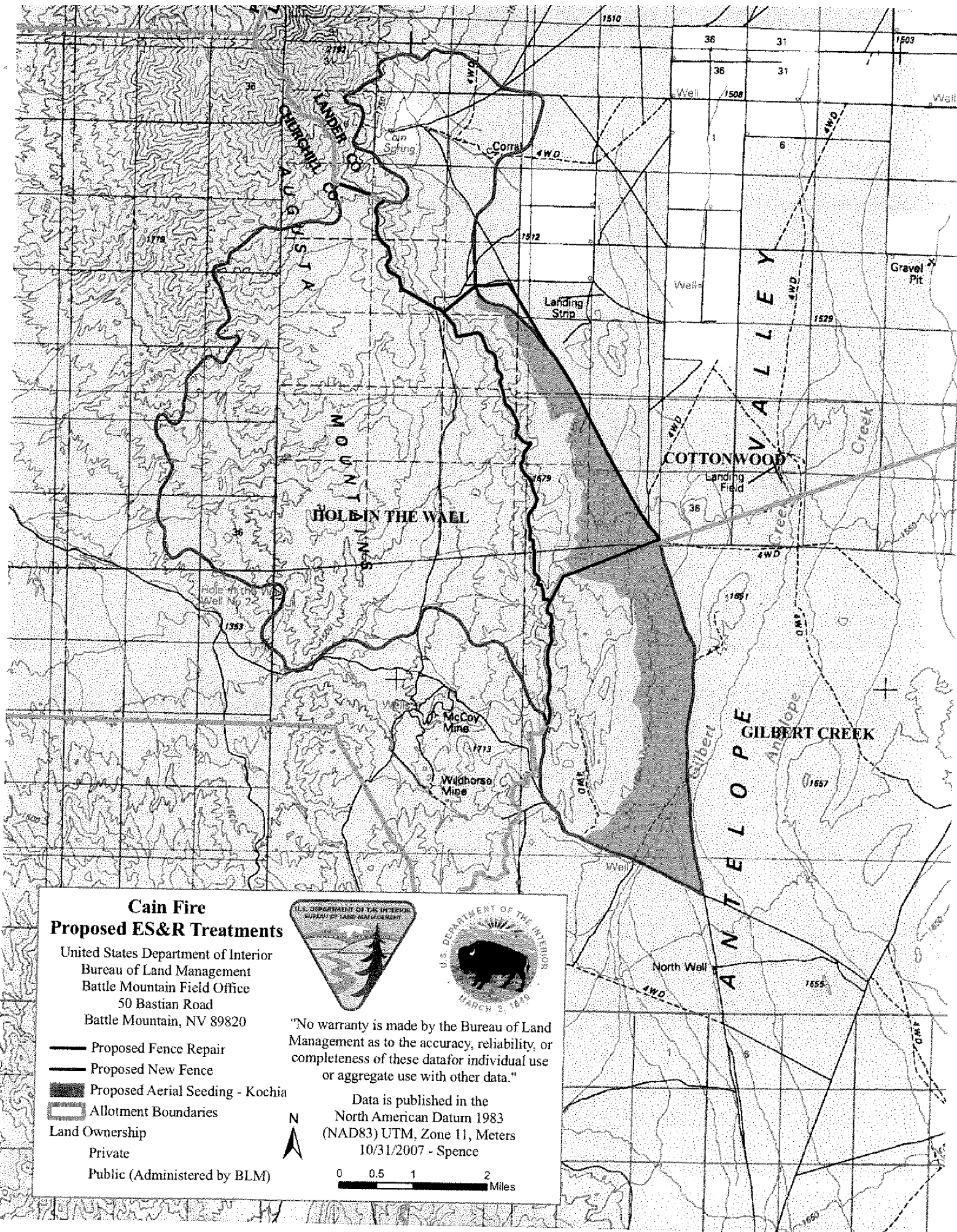
Norman K. Sharp  
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Pete Tomera  
PO Box 276  
Battle Mountain, NV 89820

Ray Williams Jr  
PO Box 111  
Austin, NV 89310

Laurel Marshall  
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Eureka, NV 89316

Jerry Todd  
P.O. Box 73  
Eureka, NV 89316



**Cain Fire  
Proposed ES&R Treatments**

United States Department of Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820



- Proposed Fence Repair
- Proposed New Fence
- Proposed Aerial Seeding - Kochia
- Allotment Boundaries
- Land Ownership**
- Private
- Public (Administered by BLM)

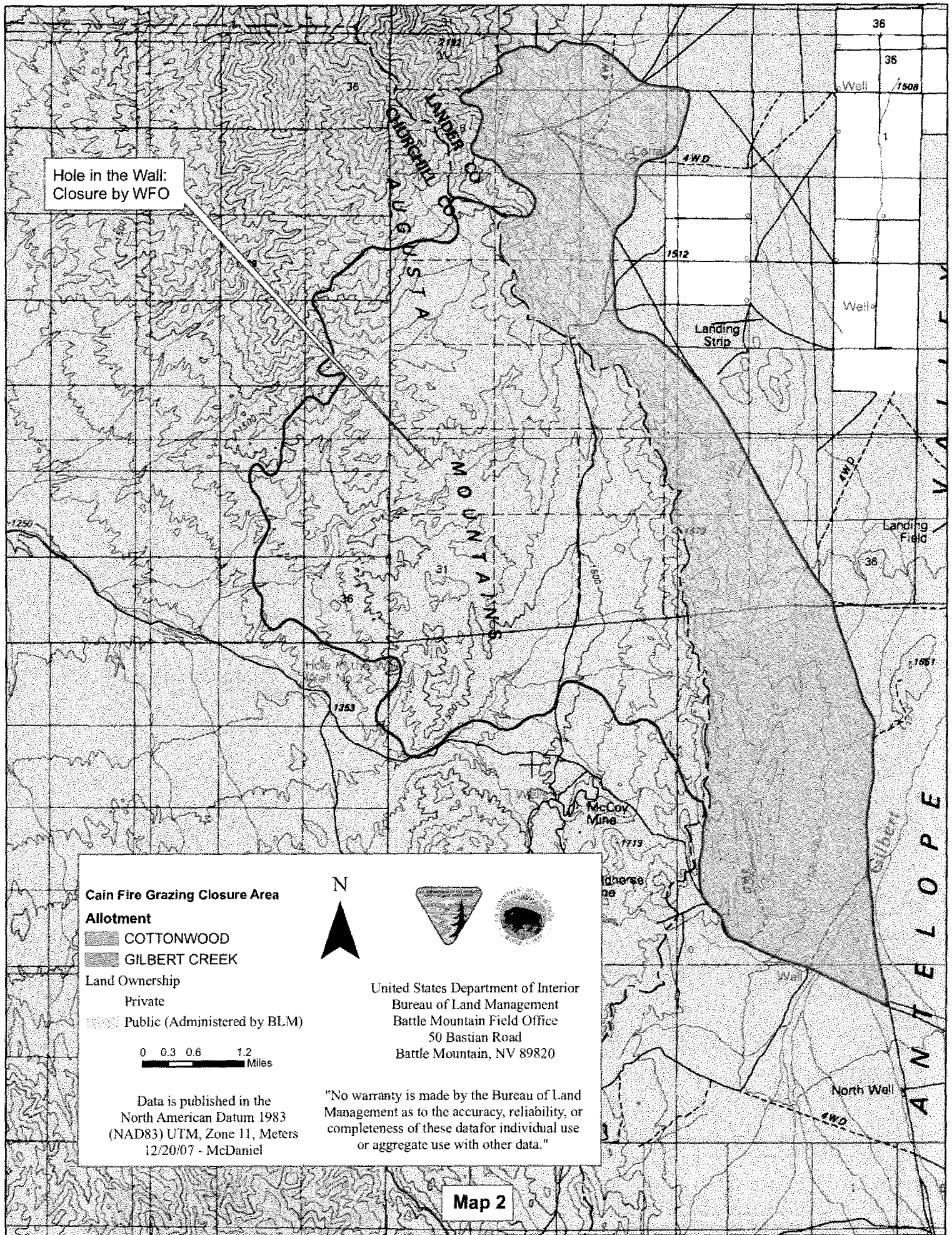
"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

Data is published in the  
North American Datum 1983  
(NAD83) UTM, Zone 11, Meters  
10/31/2007 - Spence



**MAP 1**









Hole in the Wall:  
Closure by WFO

**Cain Fire Grazing Closure Area**

**Allotment**

-  COTTONWOOD
-  GILBERT CREEK

**Land Ownership**

-  Private
-  Public (Administered by BLM)

0 0.3 0.6 1.2 Miles

United States Department of Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820

Data is published in the  
North American Datum 1983  
(NAD83) UTM, Zone 11, Meters  
12/20/07 - McDaniel

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

Map 2





## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, Nevada 89820  
Phone: 775-635-4000 - Fax: 775-635-4034  
<http://www.nv.blm.gov/battlemountain>  
or [bmfoweb@nv.blm.gov](mailto:bmfoweb@nv.blm.gov)



In Reply Refer To:  
4110/4160/4190 (NV060)

CERTIFIED RECEIPT:  
RETURN RECEIPT REQUESTED

DEC 21 2007

### **WILDFIRE MANAGEMENT AND LIVESTOCK CLOSURE DECISION 2007 RAVEN FIRE**

#### **INTRODUCTION**

During the summer of 2007, the Battle Mountain Field Office (BMFO) experienced six large fires in need of emergency stabilization and rehabilitation. The Raven Fire burnt a total of 40,012 acres of public land, of which 13,427 acres occurred within the Manhattan Mountain Allotment and 25,605 acres occurred within the Gilbert Creek Allotment. This decision will implement the emergency stabilization/rehabilitation (ES&R) treatments and grazing closures for the Raven Fire (see attached maps for the burn area and treatment locations).

#### **BACKGROUND**

Emergency Stabilization and Rehabilitation (ES&R) plans were developed through an interdisciplinary approach to determine needed treatments to minimize threats to life or property, to stabilize and prevent unacceptable degradation to critical cultural and natural resources that would not recover naturally, and to establish a healthy, stable ecosystem in which native species are well represented. The 2007 fires impacted various natural resource values including crucial sage grouse and other wildlife habitat, forest and woodland ecosystems, and forage for wild horses and livestock. These fires also increase the potential of reducing ecological condition by increasing the potential of wind and water erosion and facilitating the spread of non-native invasive and/or noxious weed species.

Non-native invasive and/or noxious weed inventory will occur within the burn area for the Raven Fire. If it is determined that noxious weed treatment is required, the BMFO will take the appropriate steps for site specific authorization of the weed treatments. The permittees and interested publics will be notified prior to the implementation of weed treatments.

In order to promote the success of ES&R vegetation treatments and/or natural recovery of perennial vegetation, rest from livestock grazing is required. The Shoshone-Eureka Resource Management Plan (RMP) Record of Decision dated February 1986 and the BMFO 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 a minimum of two growing seasons or until vegetative objectives are met. In addition to closing burned areas 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 burned areas have received, and the suitability of the sites for livestock grazing.

On November 8<sup>th</sup>, 2007, the BMFO sent out the public consultation letter for all of the 2007 fires that affected the allotments administered by the BMFO. This consultation letter was issued for a 15-day comment period and discussed the proposed ES&R treatments for each burn area, grazing closures, temporary suspension of AUMs, and the recommendations for the vegetative objectives/criterion for reintroduction of livestock to the burn areas. The letter served as the opportunity for the interested public, partners, stake holders, along with state, local and tribal governments to provide comments to the ES&R projects that had been developed by the BMFO ES&R interdisciplinary team.

At the conclusion of the comment period, we have received comments from the Nevada Natural Heritage Program. The Nevada Natural Heritage Program requested that Palmer penstemon (*Penstemon palmeri* var. *palmeri*) not be used within the seed mixes for treatment areas. Palmer penstemon has not been proposed to be within the stabilization or rehabilitation seed mixes for all of the treatment areas for the burns.

Therefore, after carefully considering the comments submitted by the interested public, it is my decision to implement the management actions identified below for Wildfire Management and Grazing Closures for the Raven Fire:

## **WILDFIRE MANAGEMENT DECISION**

This decision is issued under 43 CFR 4190.1 and is effective upon issuance. The Bureau of Land Management, Battle Mountain Field Office, 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 the effects of the 2007 wildfires.

### **Aerial Seeding:**

Four seed mixes will be utilized to aerially seed a total of 7,100 acres of public land to establish vegetation that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by fire. The seed mixes will consist of forage kochia, streambank wheatgrass, Western wheatgrass, Basin wildrye,

Wyoming big sagebrush, and white-stemmed rabbitbrush. Seed will be applied using a helicopter in the winter to take advantage of available soil moisture. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor. Refer to Map 1 for aerial seeding treatments.

### **Temporary Fence:**

Approximately 7 miles of temporary fence will be constructed to protect seeded and/or natural recovery areas by excluding use by livestock. Refer to Map 1 for the location of the protective fence.

### **Flash Flood Warning Signs:**

Flash flood warning signs will be placed along roads and trails within the Raven Fire perimeter to inform residents and recreationists of the dangers from fire-associated flash flooding and debris flows.

## **RATIONALE**

This decision is issued as Full Force in Effect, in accordance with 43 CFR 4190.1, to allow the timely implementation of treatments within a time frame consistent with the urgent nature of burned area stabilization and rehabilitation to mitigate the effects of wildfire and fire suppression activities on natural resources. Such resources include wildlife habitat, forest and woodland ecosystems, forage for wildlife, wild horses, and livestock, soil structure, and life and property. Implementation of the treatments for the Raven Fire will protect potential invasion and establishment of invasive and/or noxious weeds, provide quality forage for livestock and wildlife, and facilitate meeting the Northeastern Great Basin Area Resource Advisory Council's (RAC) Standards and Guidelines.

Analysis of the burned area and the associated range sites was completed to determine the suitability and location of the drill and aerial seeding treatments. Seed selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by the fires. Literature, research and implementation of previous Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) plans has shown success with the timing and application methods that will be utilized to implement the seeding treatments. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor.

Analysis of the burned area, the associated range sites, and habitat values were completed to determine the suitability, location, and need of the aerial seeding treatments for the Raven Fire. Although some recovery of perennial bunch grasses is expected to occur naturally, the amount will not be adequate to stabilize soils, reduce erosion potential, and recover wildlife habitat. Seed mixes selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, replace organic litter that was consumed by the fires, and restore important wildlife habitat.

Forage kochia will be utilized as one of the aerial seed mixes in order to provide stabilization to less productive range sites that were impacted by the Raven Fire. This species will also provide valuable forage for mule deer winter range, which was impacted by the burn. Native species consisting of streambank wheatgrass, Western wheatgrass, Basin wildrye, Wyoming big sagebrush, and white-stemmed rabbitbrush will promote the native integrity of the burn areas, stabilize soils, and limit cheatgrass. If successful, these treatments will also allow for the recovery of habitat for wildlife, namely winter habitat for sage grouse and mule deer.

The proposed temporary fence will be built in conjunction with existing fences and topographical barriers to keep grazing animals off the burned area to allow re-establishment of vegetation. Exclusion of livestock grazing is necessary to allow seedling establishment, restore plant vigor and seed production, to allow re-establishment of preferred species and to deter invasion of undesirable species. The subsequent rest from grazing will allow the establishing vegetation to develop effective root depths and root reserves. The establishment of vegetation will reduce the amount of soil loss from wind and water erosion. Seeding, while aiding in site stabilization, will also provide cover and forage for wildlife populations and nesting habitat for migratory birds. Successful seeding will also help reduce runoff and trap sediment.

Human health and safety on the public lands is of the highest priority. Flash flood warning signs will be placed within the burn area in an effort to warn residents along with the general public of the erosion hazards associated with the Raven Fire.

Pursuant to Section 106 of the national Historic Preservation Act, the lead Federal agency is required to take historic properties into account prior to implementing Federal Undertakings. Cultural resource inventories will be conducted on areas proposed for ground disturbing stabilization treatment (temporary fence construction, drill seeding, straw dam erosion control structures, etc.). These inventories will be conducted prior to implementation of the proposed treatments in order to identify and avoid cultural resources determined by the BLM to be eligible for the National Register.

The proposed action conforms to the Shoshone-Eureka Resource Management Plan (RMP), as amended, the Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated March 1994 and the Northeastern Great Basin Resource Area Council's (RAC) Standards and Guidelines. The proposed treatments are specifically accounted for in the Normal Fire Rehabilitation Plan and the Northeastern Great Basin RAC Standards and Guidelines Appendix A – Vegetation Guidelines.

### **Monitoring:**

Through the development of the Emergency Stabilization and Burned Area Rehabilitation Plans, the BMFO ES&R interdisciplinary team has recommended vegetation treatments to stabilize soils, prevent the invasion of non-native invasive and/or noxious weed species, and to re-introduce vegetative species to the range sites. Monitoring will be completed to analyze effectiveness and success of these treatments. Weed inventories will also occur throughout the monitoring period to determine if treatment of noxious weeds within the burn areas is necessary.

All vegetation treatments will be monitored for effectiveness using point-intercept and frame density techniques as outlined in BLM Technical Reference 1734-4 (BLM 1999) to determine cover and density of seeded and non-seeded species during the three years following treatment implementation. Monitoring will be oriented toward addressing the following questions: 1) Have the desirable species been successfully established and do they provide sufficient cover to adequately protect the site from soil erosion? 2) Is there evidence that a self-sustaining community has established? and 3) Are vegetative reproduction and establishment of the desirable species occurring? Permanent representative monitoring sites will be established to monitor density and cover of the seeded species, native release, along with noxious and/or invasive weed encroachment. When possible, all monitoring sites will have adjacent, non-treated reference sites established to compare results of treatments. Density and cover measurements will be utilized to determine the effectiveness of ground and aerial seeding treatments. The objectives for density will be to obtain three plants per 3' square plot along the 100' transect. The objectives for cover will be to obtain 75% of perennial plant cover associated with the reference area if it is found that an adjacent reference site is available for comparison. When it is not possible to use adjacent reference sites to compare density and cover, the BMFO will utilize the appropriate ecological or range site. These objectives have been found to be appropriate by the BMFO ES&R interdisciplinary team for a low production 5-8" precipitation zone. Vegetation treatment monitoring will be conducted by the BMFO monitoring staff during late spring to early summer, following florescence for accurate identification of species.

**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:

**§4190.1 Effect of wildfire management decisions.**

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and
- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

**APPEAL PROVISIONS**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Douglas Furtado, Assistant Field Manager, Renewable Resources, within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior  
Office of the Secretary  
Board of Land Appeals  
4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) **4190.1 (a)** for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE U.S. Department of the Interior  
NOTICE OF APPEAL. . . . Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820

SOLICITOR U.S. Department of the Interior  
ALSO COPY TO. . . . Office of the Field Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825

A petition for a stay of a decision pending appeal 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.

## **GRAZING CLOSURE 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 CFR 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:

1. Close the burned areas within the Manhattan Mountain and Gilbert Creek Allotments impacted by the Raven Fire (Refer to Map 2 for fire closure areas) for a minimum of two growing seasons or until vegetation objectives specified below are attained. The closure will be in affect on March 1<sup>st</sup>, 2008.
2. Temporarily suspend 962 AUMs associated with Ellison Ranching Company's permitted use for the Gilbert Creek Allotment for a minimum of two growing seasons or until vegetation objectives specified are attained.
3. Temporarily suspend 229 AUMs associated with Silver Creek Ranch, Inc.'s permitted use for the Gilbert Creek Allotment for a minimum of two growing seasons or until vegetation objectives specified are attained.
4. Temporarily suspend 373 AUMs associated with Silver Creek Ranch, Inc.'s permitted use for the Manhattan Mountain Allotment for a minimum of two growing seasons or until vegetation objectives specified are attained.

## **RATIONALE:**

This decision is being issued in Full Force in 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 successful establishment of seeding treatments and to limit the likelihood of significant damage to natural resources. Rest from livestock grazing is required in order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the affects of the burn prior to the re-introduction of livestock grazing. The growing season for key perennial grasses in the burned area approximately begins in April and ends in August depending upon the year and the species type.

The AUMs placed in temporary suspension for the Gilbert Creek Allotment were developed by calculating the active preference associated with the allotment and determining the proportion of that preference is associated with Ellison Ranching Company and Silver Creek Ranch, Inc. It was determined that the current stocking rate for the portion of the Gilbert Creek Allotment impacted by the Raven Fire is approximately 21.5 acres per AUM. The entire burn area was considered to be available for grazing, which consisted of 25,605 acres within the Gilbert Creek Allotment. The Raven Fire impacted the lower elevations of the Silver Creek Ranch, Inc. use area within the Gilbert Creek Allotment. Due to this, it has been determined that cattle AUMs

will be placed in temporary suspension versus sheep AUMs for Silver Creek Ranch, Inc. Therefore, a total of 1,191 AUMs are unavailable due to the fire closure associated with this portion of the Gilbert Creek Allotment.

The AUMs to be placed in temporary suspension are based on the current stocking rate for the Manhattan Mountain Allotment, which is approximately 36 acres per AUM. A total of 13,427 acres of the Manhattan Mountain Allotment has been affected by the Raven Fire and associated treatments. Therefore, it was determined that 372 AUMs will be placed in temporary suspension for Silver Creek Ranch, Inc. for the portion of the allotment impacted by the Raven Fire.

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

#### **1. Drill and Aerial Seeding Treatments**

Achieve a minimum of two plants per 3 foot square plot along a 100 foot transect for the lower elevation, less productive range sites and four plants per 3 foot square plot along the 100 foot transect on upper elevation, higher productive range sites.

Achieve a minimum of 75% of the vegetative cover (basal and canopy) for perennial species relative to the site potential as indicated by the appropriate ecological site.

Achieve total dry weight production rates for seeded and unseeded species (minus annual species) that corresponds to the range site description and to the given precipitation year (i.e. normal and unfavorable years).

#### **2. Native Release**

Total dry weight production of perennial herbaceous species in burned areas must equal or exceed the herbaceous production on nearby unburned areas in the same or similar ecological sites.

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, an additional growing season of rest might provide.

Monitoring will be conducted annually following the growing season. Permanent monitoring sites will be established in 2008. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

**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, Assistant Field Manager for Renewable Resources 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:

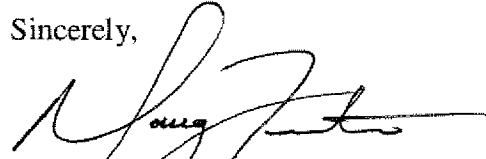
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

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,

A handwritten signature in black ink, appearing to read 'Douglas W. Furtado', written over a horizontal line.

DOUGLAS W. FURTADO  
Assistant Field Manager  
Renewable Resources

Enclosure(s)

cc: Interested Public

American Horse Protection Assoc.  
1000 29th St NW Suite T-100  
Washington, DC 20007

Clarinda Oppenheim  
Battle Mountain Band Council  
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Battle Mountain, NV 89820

Brenda Younkin, Stewardship Director  
Conservation Research Center  
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Jackson, WY 83001

Annette George  
Duckwater Shoshone Tribe  
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Ellision Ranching Co.  
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Eureka County Commissioners  
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Eureka, NV 89316

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Gandolfo Ranch  
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Austin, NV 89310

National Mustang Association  
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Cedar City, UT 84721

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Nevada Commission for Preservation of Wild Horses  
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D.J. Schubert, Wildlife Biologist  
Animal Welfare Institute  
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Egg Harbor Township, NJ 08234

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Battle Mountain Band Council  
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Duckwater Shoshone Tribe  
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Duckwater, NV 89314

Ruby Sam, Chair  
Duckwater Shoshone Tribe  
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Hank Filippini  
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Nevada Department of Wildlife  
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Steve Foree, Supervisory Habitat Biologist  
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Western Watersheds Project  
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Austin, NV 89310

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District Ranger  
USDA Forest Service Austin District  
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Austin, NV 89310

Dawn Lappin  
Wild Horses Organized Assistance  
PO Box 555  
Reno, NV 89504

Kenny Smith  
Yomba Shoshone Tribe  
HC 61 Box 6275  
Austin, NV 89310

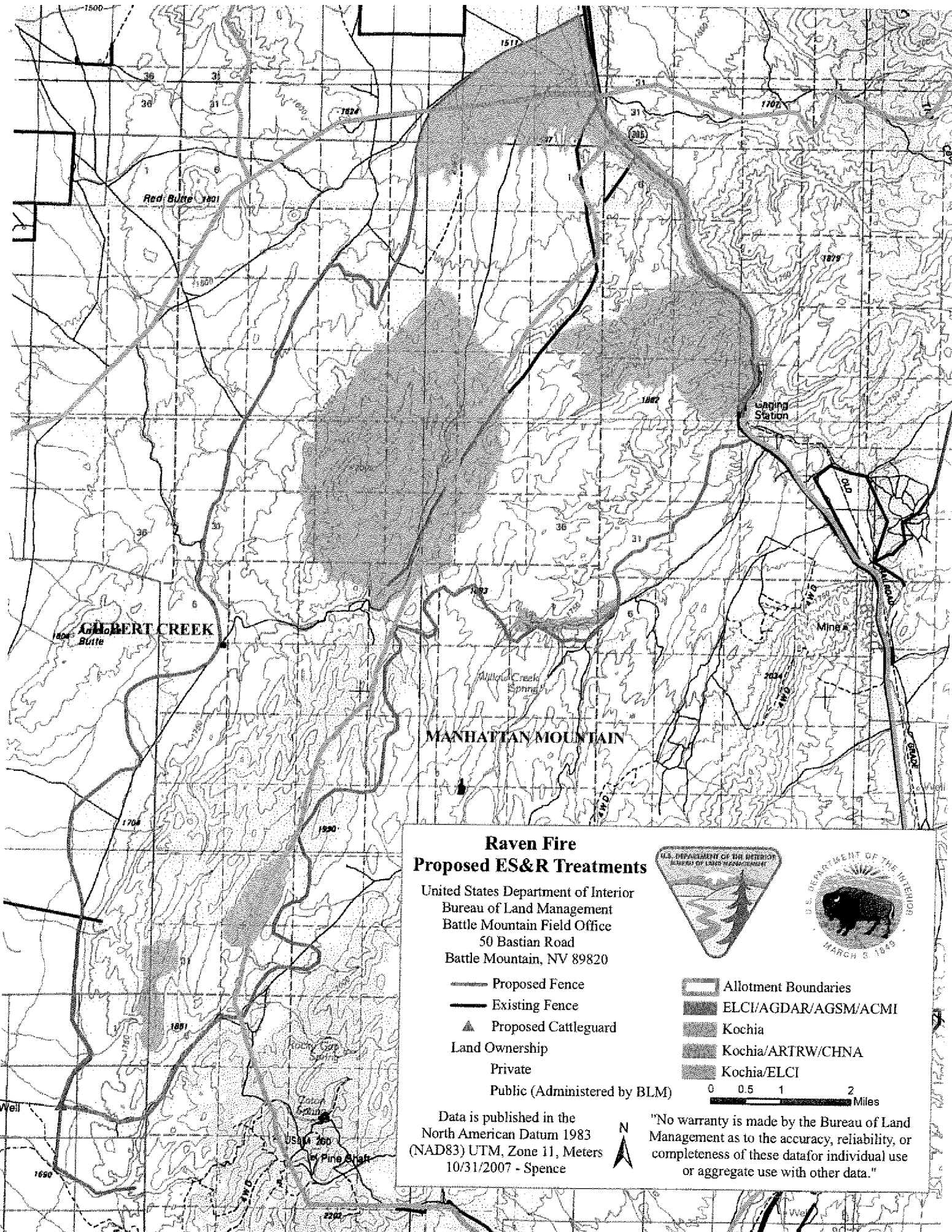
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Norman K. Sharp  
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Tonopah, NV 89049

Ray Williams Jr  
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Laurel Marshall  
P.O. Box 462  
Eureka, NV 89316

Jerry Todd  
P.O. Box 73  
Eureka, NV 89316



### Raven Fire Proposed ES&R Treatments

United States Department of Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820



- Proposed Fence
- Existing Fence
- Proposed Cattleguard
- Land Ownership**
- Private
- Public (Administered by BLM)
- Allotment Boundaries
- ELCI/AGDAR/AGSM/ACMI
- Kochia
- Kochia/ARTRW/CHNA
- Kochia/ELCI

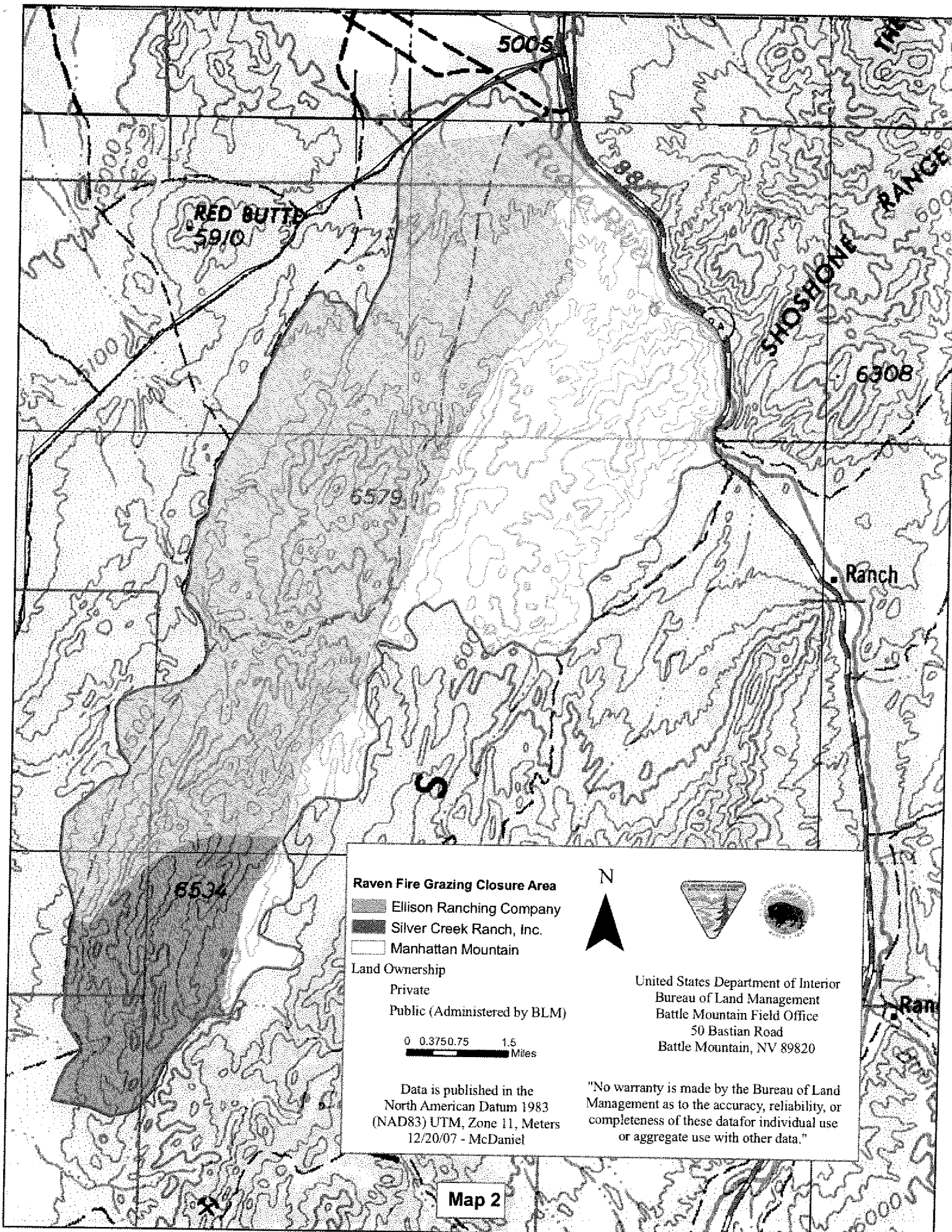


Data is published in the  
North American Datum 1983  
(NAD83) UTM, Zone 11, Meters  
10/31/2007 - Spence



"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

MAP 1



RED BUTTE  
5910

5005

SHOSHONE RANGE




6308

6579

Ranch

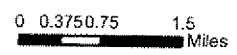
6534

**Raven Fire Grazing Closure Area**

-  Ellison Ranching Company
-  Silver Creek Ranch, Inc.
-  Manhattan Mountain

**Land Ownership**

- Private
- Public (Administered by BLM)



United States Department of Interior  
 Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820

Data is published in the  
 North American Datum 1983  
 (NAD83) UTM, Zone 11, Meters  
 12/20/07 - McDaniel

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

**Map 2**



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, Nevada 89820  
Phone: 775-635-4000 - Fax: 775-635-4034  
<http://www.nv.blm.gov/battlemountain>  
or [bmfoweb@nv.blm.gov](mailto:bmfoweb@nv.blm.gov)



In Reply Refer To:  
4110/4160/4190 (NV060)

CERTIFIED RECEIPT:  
RETURN RECEIPT REQUESTED

DEC 21 2007

### **WILDFIRE MANAGEMENT AND LIVESTOCK CLOSURE DECISION 2007 PARIS FIRE**

#### **INTRODUCTION**

During the summer of 2007, the Battle Mountain Field Office (BMFO) experienced six large fires in need of emergency stabilization and rehabilitation. The Paris Fire burnt a total of 9,724 acres of public land, of which 3,007 acres occurred within the Cottonwood Allotment and 6,717 acres occurred within the Carico Lake Allotment. This decision will implement the emergency stabilization/rehabilitation (ES&R) treatments and grazing closures for the Paris Fire (see attached maps for the burn area and treatment locations).

#### **BACKGROUND**

Emergency Stabilization and Rehabilitation (ES&R) plans were developed through an interdisciplinary approach to determine needed treatments to minimize threats to life or property, to stabilize and prevent unacceptable degradation to critical cultural and natural resources that would not recover naturally, and to establish a healthy, stable ecosystem in which native species are well represented. The 2007 fires impacted various natural resource values including crucial sage grouse and other wildlife habitat, forest and woodland ecosystems, and forage for wild horses and livestock. These fires also increase the potential of reducing ecological condition by increasing the potential of wind and water erosion and facilitating the spread of non-native invasive and/or noxious weed species.



Non-native invasive and/or noxious weed inventory will occur within the burn area for the Paris Fire. If it is determined that noxious weed treatment is required, the BMFO will take the appropriate steps for site specific authorization of the weed treatments. The permittees and interested publics will be notified prior to the implementation of weed treatments.

In order to promote the success of ES&R vegetation treatments and/or natural recovery of perennial vegetation, rest from livestock grazing is required. The Shoshone-Eureka Resource Management Plan (RMP) Record of Decision dated February 1986 and the BMFO 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 burned areas 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 burned areas have received, and the suitability of the sites for livestock grazing.

On November 8<sup>th</sup>, 2007, the BMFO sent out the public consultation letter for all of the fires that affected the allotments administered by the BMFO. This consultation letter was issued for a 15-day comment period and discussed the proposed ES&R treatments for each burn area, grazing closures, temporary suspension of AUMs, and the recommendations for the vegetative objectives/criterion for reintroduction of livestock to the burn areas. The letter served as the opportunity for the interested public, partners, stake holders, along with state, local and tribal governments to provide comments to the ES&R projects that had been developed by the BMFO ES&R interdisciplinary team.

At the conclusion of the comment period, we have received comments from the Nevada Natural Heritage Program. The Nevada Natural Heritage Program requested Palmer penstemon (*Penstemon palmeri* var. *palmeri*) not be used within the seed mixes for treatment areas. Palmer penstemon has not been proposed to be within the stabilization or rehabilitation seed mixes for all of the treatment areas for the burns.

Therefore, after carefully considering the comments submitted by the interested public, it is my decision to implement the management actions identified below for Wildfire Management and Grazing Closures for the Paris Fire:

## **WILDFIRE MANAGEMENT DECISION**

This decision is issued under 43 CFR 4190.1 and is effective upon issuance. The Bureau of Land Management, Battle Mountain Field Office, 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 the effects of the 2007 wildfires.

### **Drill Seeding:**

Approximately 1,362 acres will be drill seeded with Indian ricegrass for emergency stabilization purposes. Drill seeding of these species will maintain the native integrity of the site along with ecological stability, minimize invasion of cheatgrass and/or noxious weed species, and stabilize

soils to minimize topsoil loss and fugitive dust. Seeding will be completed using a rangeland drill in the winter months to take advantage of available soil moisture. Refer to Map 1 for drill seeding locations.

### **Aerial Seeding:**

A total of 1,904 acres will be aerially seeded within the perimeter of the Paris Fire. One seed mix consisting of bluebunch wheatgrass, Idaho fescue, and Basin wildrye will be used to stabilize portions of the burn that experienced moderate to heavy burn severity. Although some recovery of native perennial bunch grasses is expected, the amount will not be adequate enough to stabilize soils and reduce erosion potential. The stabilization efforts under the aerial seeding projects are necessary in order to limit wind and water erosion throughout the upper elevations of the burn area. Seeding will be applied using a helicopter in the winter months to take advantage of available soil moisture. Refer to Map 1 for aerial seeding treatment locations.

### **RATIONALE:**

This decision is issued as Full Force in Effect, in accordance with 43 CFR 4190.1, to allow the timely implementation of treatments within a time frame consistent with the urgent nature of burned area stabilization and rehabilitation to mitigate the effects of wildfire and fire suppression activities on natural resources. Such resources include wildlife habitat, forest and woodland ecosystems, forage for wildlife, wild horses, and livestock, soil structure, and life and property.

Analysis of the burned area and the associated range sites was completed to determine the suitability and location of the drill and aerial seeding treatments. Seed mixes selected for the Paris Fire consist of native species in order to maintain the native integrity of the range sites impacted by the burn. Seed selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by the fires.

Drill and aerial seeding treatment areas occur within portions of the burn that was subject to moderate to heavy burn severity. In order to increase the likelihood of success, the seeding treatments will occur within the winter months in order to take advantage of available soil moisture. Aerial seeding treatments will occur in areas that are not accessible to drills due to topography and terrain. Literature, research and implementation of previous Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) plans has shown success with the timing and application methods that will be utilized to implement the seeding treatments. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor.

Pursuant to Section 106 of the national Historic Preservation Act, the lead Federal agency is required to take historic properties into account prior to implementing Federal Undertakings. Cultural resource inventories will be conducted on areas proposed for ground disturbing stabilization treatment (temporary fence construction, drill seeding, straw dam erosion control structures, etc.). These inventories will be conducted prior to implementation of the proposed treatments in order to identify and avoid cultural resources determined by the BLM to be eligible for the National Register.

The proposed action conforms to the Shoshone-Eureka Resource Management Plan (RMP), as amended, the Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated March 1994 and the Northeastern Great Basin Resource Area Council's (RAC) Standards and Guidelines. The proposed treatments are specifically accounted for in the Normal Fire Rehabilitation Plan and the Northeastern Great Basin RAC Standards and Guidelines Appendix A – Vegetation Guidelines.

**Monitoring:**

Through the development of the Emergency Stabilization and Burned Area Rehabilitation Plans, the BMFO ES&R interdisciplinary team has recommended vegetation treatments to stabilize soils, prevent the invasion of non-native invasive and/or noxious weed species, and to re-introduce vegetative species to the range sites. Monitoring will be completed to analyze effectiveness and success of these treatments. Weed inventories will also occur throughout the monitoring period to determine if treatment of noxious weeds within the burn areas is necessary.

All vegetation treatments will be monitored for effectiveness using point-intercept and frame density techniques as outlined in BLM Technical Reference 1734-4 (BLM 1999) to determine cover and density of seeded and non-seeded species during the three years following treatment implementation. Monitoring will be oriented toward addressing the following questions: 1) Have the desirable species been successfully established and do they provide sufficient cover to adequately protect the site from soil erosion? 2) Is there evidence that a self-sustaining community has established? and 3) Are vegetative reproduction and establishment of the desirable species occurring? Permanent representative monitoring sites will be established to monitor density and cover of the seeded species, native release, along with noxious and/or invasive weed encroachment. When possible, all monitoring sites will have adjacent, non-treated reference sites established to compare results of treatments. Density and cover measurements will be utilized to determine the effectiveness of ground and aerial seeding treatments. The objectives for density will be to obtain three plants per 3' square plot along the 100' transect. The objectives for cover will be to obtain 75% of perennial plant cover associated with the reference area if it is found that an adjacent reference site is available for comparison. When it is not possible to use adjacent reference sites to compare density and cover, the BMFO will utilize the appropriate ecological or range site. These objectives have been found to be appropriate by the BMFO ES&R interdisciplinary team for a low production 5-8" precipitation zone. Vegetation treatment monitoring will be conducted by the BMFO monitoring staff during late spring to early summer, following florescence for accurate identification of species.

**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:

**§4190.1 Effect of wildfire management decisions.**

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and
- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

**APPEAL PROVISIONS**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Douglas Furtado, Assistant Field Manager, Renewable Resources, within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior  
Office of the Secretary  
Board of Land Appeals  
4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) **4190.1 (a)** for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE U.S. Department of the Interior  
NOTICE OF APPEAL. . . . Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820

SOLICITOR U.S. Department of the Interior  
ALSO COPY TO. . . . Office of the Field Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825

A petition for a stay of a decision pending appeal 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.

### **GRAZING CLOSURE 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 CFR 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:

1. Close the burned areas within the Carico Lake and Cottonwood Allotments impacted by the Paris Fire (Refer to Map 2 for fire closure areas) for two growing seasons or until vegetation objectives specified below are attained. The closure will be in affect on March 1<sup>st</sup>, 2008.
2. Extend the grazing closure and temporary suspension of AUMs issued on April 24<sup>th</sup>, 2007 in association with the 2006 Gap and Cottonwood fires for two additional years or until vegetation objectives are met.
3. Temporarily suspend 156 AUMs associated with Ellison Ranching Company's permitted use for the Fish Creek Use Area of the Carico Lake Allotment for two growing seasons or until vegetation objectives specified are attained.

### **RATIONALE:**

This decision is being issued in Full Force in 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 successful establishment of seeding treatments and to limit the likelihood of significant damage to natural resources. Rest from livestock grazing is required in order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the affects of the burn prior to the re-introduction of livestock grazing. The growing season for key perennial grasses in the burned area begins approximately in April and ends in August depending upon the year and the species type.

The Paris Fire occurred within a portion of the Cottonwood Allotment previously impacted by wildfires in 2006. In 2006, the Cottonwood and Gap fires occurred within the general vicinity of the location of the Paris Fire. The treatments proposed and implemented due to the 2006 fires resulted in the temporary suspension of AUMs and grazing closures within a large area of the

Cottonwood Allotment. The Paris Fire occurred within the affected treatment and closure area of the 2006 decisions. Therefore, the extension of the grazing closure and temporary suspension of AUMs for an additional two years is required in order to facilitate the recovery of the Paris Fire.

The fire also occurred within the Fish Creek Use Area of the Carico Lake Allotment, impacting Ellison Ranching Company. Due to the location of the fire, closure for two growing seasons or until vegetative objectives are attained is required in order to facilitate the success of the ES&R treatments for the Paris fire. Use areas and appropriate stocking levels were implemented through the 2005 Final Multiple Use Decision (FMUD). The AUMs to be placed in temporary suspension were determined by assessing the impacts of the Fish Creek Use Area for Ellison Ranching Company. The carrying capacity implemented through the 2005 FMUD is approximately 43 acres per AUM. Therefore, a total of 156 AUMs are unavailable due to the fire closure associated with this portion of the Carico Lake Allotment.

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

#### **1. Drill and Aerial Seeding Treatments**

Achieve a minimum of two plants per 3 foot square plot along a 100 foot transect for the lower elevation, less productive range sites and four plants per 3 foot square plot along the 100 foot transect on upper elevation, higher productive range sites.

Achieve a minimum of 75% of the vegetative cover (basal and canopy) for perennial species relative to the site potential as indicated by the appropriate ecological site.

Achieve total dry weight production rates for seeded and unseeded species (minus annual species) that corresponds to the range site description and to the given precipitation year (i.e. normal and unfavorable years).

#### **2. Native Release**

Total dry weight production of perennial herbaceous species in burned areas must equal or exceed the herbaceous production on nearby unburned areas in the same or similar ecological sites.

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, an additional growing season of rest might provide.

Monitoring will be conducted annually following the growing season. Permanent monitoring sites will be established in 2008. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

**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, Assistant Field Manager for Renewable Resources 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:

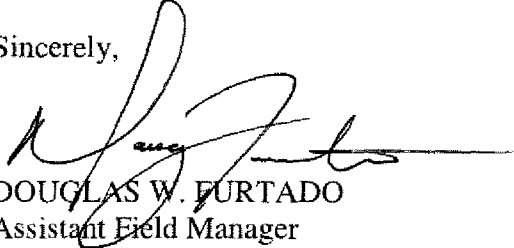
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

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,



DOUGLAS W. FURTADO  
Assistant Field Manager  
Renewable Resources

Enclosure(s)

cc: Interested Public



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C Ranches Inc  
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Fennemore George  
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Ellision Ranching Co.  
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Chairman  
Lovelock Paiute Tribe  
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Natural Resources Advisory Commission  
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Eureka, NV 89316

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Animal Welfare Institute  
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Conservation Research Center  
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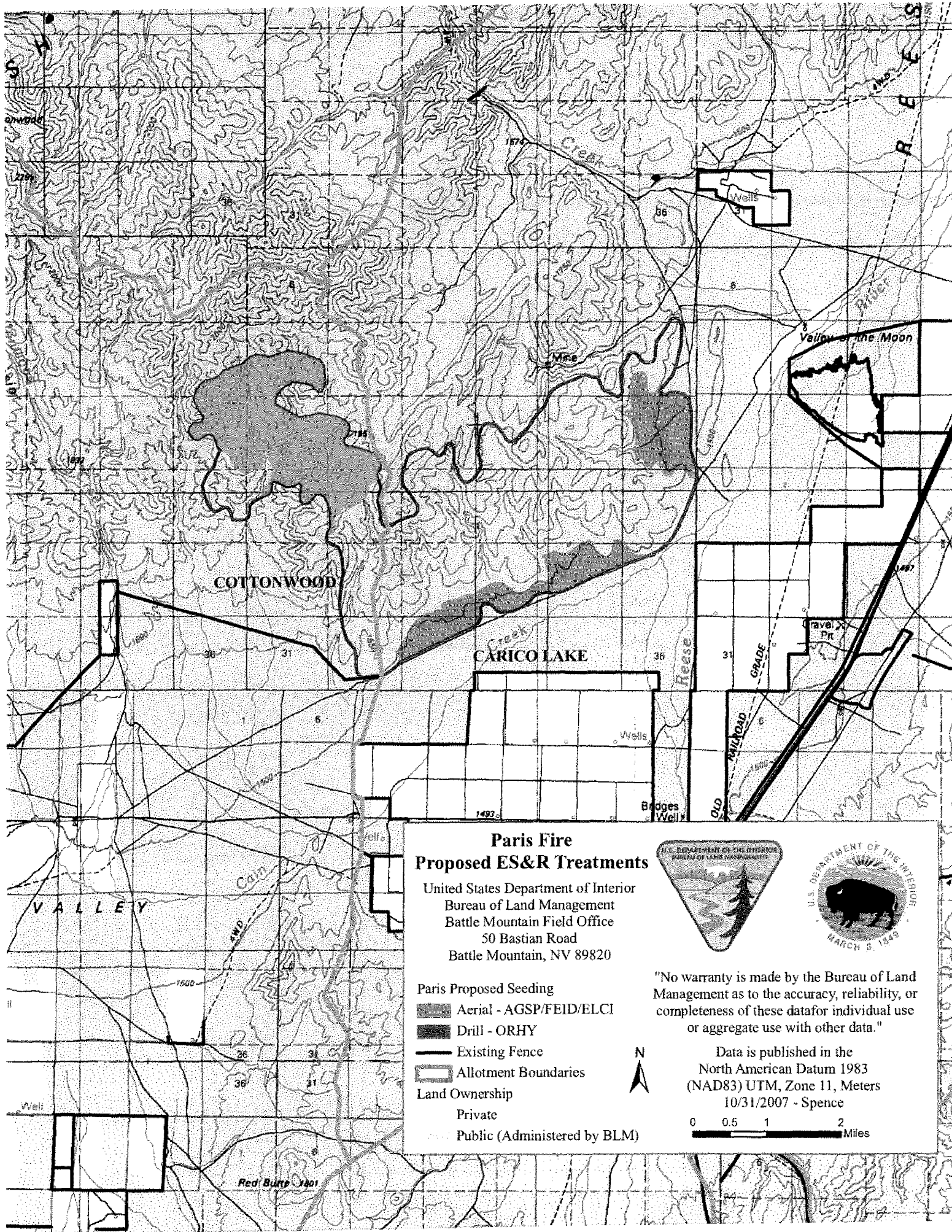
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Tonopah, NV 0

Norman K Sharp  
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Laurel Marshall  
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Eureka, NV 89316

Jerry Todd  
P.O. Box 73  
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Nevada Department of Wildlife  
Larry Teske, Biologist  
113 Carson Road  
Battle Mountain, NV 89820



### Paris Fire Proposed ES&R Treatments

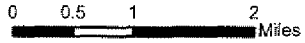
United States Department of Interior  
 Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820

- Paris Proposed Seeding
- Aerial - AGSP/FEID/ELCI
  - Drill - ORHY
  - Existing Fence
  - Allotment Boundaries
- Land Ownership
- Private
  - Public (Administered by BLM)

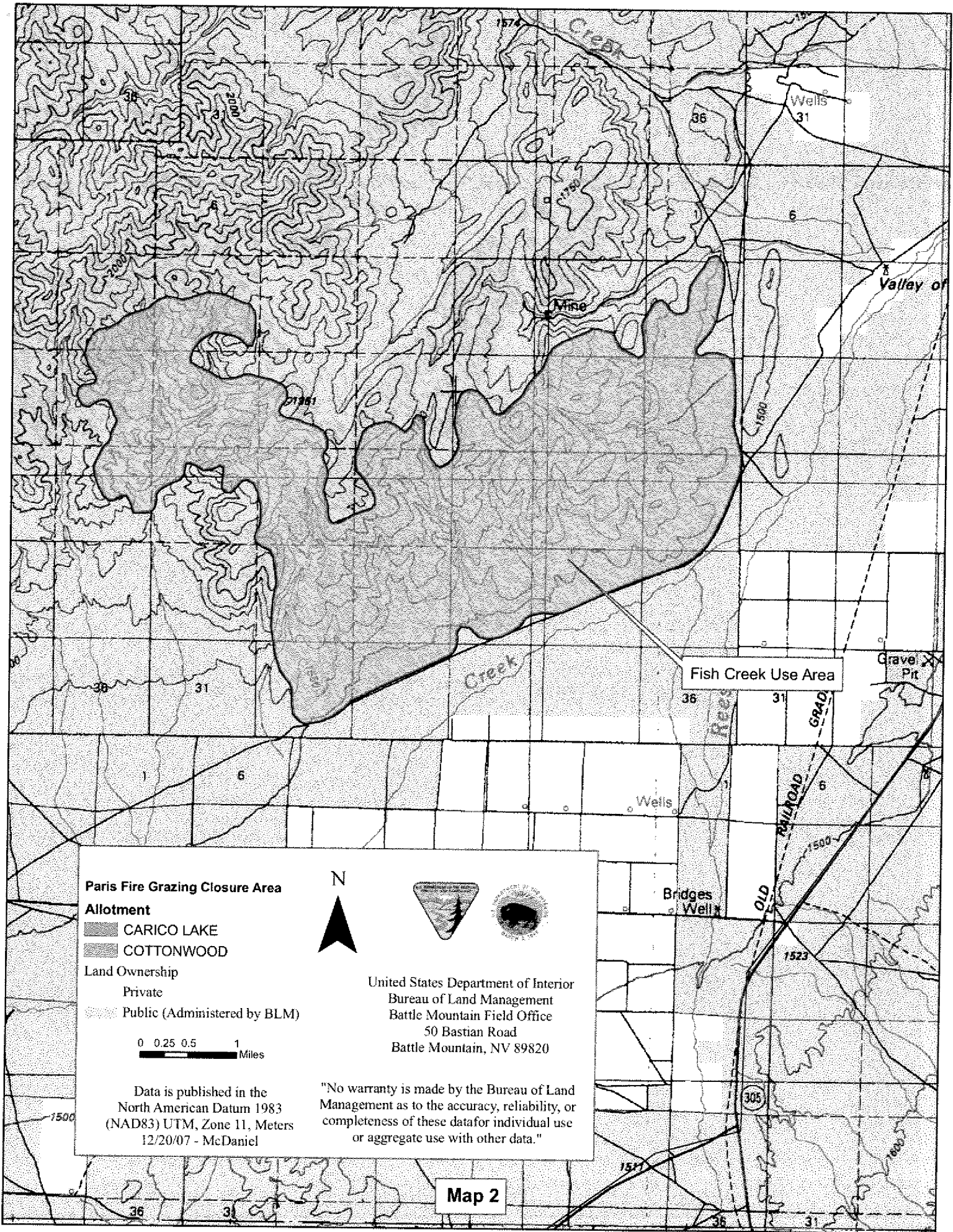


"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

Data is published in the  
 North American Datum 1983  
 (NAD83) UTM, Zone 11, Meters  
 10/31/2007 - Spence



MAP 1





**Paris Fire Grazing Closure Area**

**Allotment**

-  CARICO LAKE
-  COTTONWOOD

**Land Ownership**

-  Private
-  Public (Administered by BLM)

0 0.25 0.5 1 Miles



United States Department of Interior  
 Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820

Data is published in the  
 North American Datum 1983  
 (NAD83) UTM, Zone 11, Meters  
 12/20/07 - McDaniel

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

**Map 2**



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, Nevada 89820  
Phone: 775-635-4000 - Fax: 775-635-4034  
<http://www.nv.blm.gov/battlemountain>  
or [bmfoweb@nv.blm.gov](mailto:bmfoweb@nv.blm.gov)



In Reply Refer To:  
4110/4160/4190 (NV060)

CERTIFIED RECEIPT:  
RETURN RECEIPT REQUESTED

DEC 21 2007

**WILDFIRE MANAGEMENT DECISION  
and  
NOTICE OF CLOSURE TO LIVESTOCK GRAZING  
2007 ELEPHANT HEAD FIRE  
BATTLE MOUNTAIN FIELD OFFICE**

During the summer of 2007, the Battle Mountain Field Office (BMFO) experienced six large fires in need of emergency stabilization and rehabilitation. The Elephant Head Fire burnt a total of 28,094 acres of public land within the Carico Lake Allotment. This decision will implement the emergency stabilization/rehabilitation (ES&R) treatments and grazing closures for the Elephant Head Fire (see attached maps for the burn area and treatment locations).

### **BACKGROUND**

Emergency Stabilization and Rehabilitation (ES&R) plans were developed through an interdisciplinary approach to determine needed treatments to minimize threats to life or property, to stabilize and prevent unacceptable degradation to critical cultural and natural resources that would not recover naturally, and to establish a healthy, stable ecosystem in which native species are well represented. The 2007 fires impacted various natural resource values including crucial sage grouse and other wildlife habitat, forest and woodland ecosystems, and forage for wild horses and livestock. These fires also increase the potential of reducing ecological condition by increasing the potential of wind and water erosion and facilitating the spread of non-native invasive and/or noxious weed species.

Non-native invasive and/or noxious weed inventory will occur within the burn area for the Elephant Head Fire. If it is determined that noxious weed treatment is required, the BMFO will take the appropriate steps for site specific authorization of the weed treatments. The permittees and interested publics will be notified prior to the implementation of weed treatments.

In order to promote the success of ES&R vegetation treatments and/or natural recovery of perennial vegetation, rest from livestock grazing is required. The Shoshone-Eureka Resource Management Plan (RMP) Record of Decision dated February 1986 and the BMFO 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 burned areas 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 burned areas have received, and the suitability of the sites for livestock grazing.

On November 8<sup>th</sup>, 2007, the BMFO sent out the public consultation letter for all of the 2007 fires that affected the allotments administered by the BMFO. This consultation letter was issued for a 15-day comment period and discussed the proposed ES&R treatments for each burn area, grazing closures, temporary suspension of AUMs, and the recommendations for the vegetative objectives/criterion for reintroduction of livestock to the burn areas. The letter served as the opportunity for the interested public, partners, stake holders, along with state, local and tribal governments to provide comments to the ES&R projects that had been developed by the BMFO ES&R interdisciplinary team.

At the conclusion of the comment period, we have received comments from the Nevada Natural Heritage Program. The Nevada Natural Heritage Program requested that Palmer penstemon (*Penstemon palmeri* var. *palmeri*) not be used within the seed mixes for treatment areas. Palmer penstemon has not been proposed to be within the stabilization or rehabilitation seed mixes for all of the treatment areas for the burns.

Therefore, after carefully considering the comments submitted by the interested public, it is my decision to implement the management actions identified below for Wildfire Management and Grazing Closures for the Elephant Head Fire:

### **WILDFIRE MANAGEMENT DECISION**

This decision is issued under 43 CFR 4190.1 and is effective upon issuance. The Bureau of Land Management, Battle Mountain Field Office, 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 the effects of the 2007 wildfires.

#### **Drill Seeding:**

Approximately 1,650 acres of the Elephant Head Fire will be drilled seeded with bluebunch wheatgrass, Basin wildrye, and Siberian wheatgrass. Drill seeding of these species will maintain ecological stability, minimize invasion of cheatgrass and noxious weed species, and stabilize



soils to minimize topsoil loss and fugitive dust. Seeding will be completed using a rangeland drill in the winter months to take advantage of available soil moisture. Refer to Map 1 for drill seeding locations.

### **Aerial Seeding:**

Five seed mixes will be utilized to aerially seed a total of 11,300 acres of public land to establish vegetation that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, and replace organic litter that was consumed by fire. The seed mixes will consist of forage kochia, bluebunch wheatgrass, basin wildrye, stream bank wheatgrass, western wheatgrass, Idaho fescue, mountain brome, and Wyoming big sagebrush. Seed will be applied using a helicopter in the winter to take advantage of available soil moisture. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor. Refer to Map 1 for aerial seeding treatments.

### **Protective Fence:**

Approximately 30 miles of temporary fence, with cattle guards where appropriate, will be constructed to protect seeded and/or natural recovery areas from livestock and wild horse use. Of the 30 miles of fence, approximately 10 miles will consist of gap fencing within the boundaries of the South Shoshone Herd Management Area (HMA). These gap fences will be constructed to protect the upper elevations of the burned area from the ES&R treatments from livestock and wild horse use. Fences will be designed to allow the maintenance of the free-roaming nature of wild horses within the South Shoshone Herd Management Area (HMA). Refer to Map 1 for the location of the protective fences for the Elephant Head Fire.

In addition to the temporary protective fence for the seeded and/or natural recover areas, an aspen stand enclosure that was damaged by the fire will be reconstructed. The reconstruction is necessary to continue to protect an improving aspen stand within the Carico Lake allotment.

### **Erosion Control Structures and Warning Signs:**

Erosion control structures will be constructed within several critical areas of the Elephant Head Fire in order to reduce erosion, reduce flow rates, and trap sediment. Erosion control structures will consist of certified weed-free straw bale check dams or water bars. Flash flood warning signs will be placed along roads and trails within the Elephant Head Fire perimeter to inform residents and recreationists of the dangers from fire-associated flash flooding and debris flows.

## **RATIONALE**

This decision is issued as Full Force in Effect, in accordance with 43 CFR 4190.1, to allow the timely implementation of treatments within a time frame consistent with the urgent nature of burned area stabilization and rehabilitation to mitigate the effects of wildfire and fire suppression activities on natural resources. Such resources include wildlife habitat, forest and woodland ecosystems, forage for wildlife, wild horses, and livestock, soil structure, and life and property. Implementation of the treatments for the Elephant Head Fire will protect potential invasion and establishment of invasive and/or noxious weeds, provide quality forage for livestock and



wildlife, and facilitate meeting the Northeastern Great Basin Area Resource Advisory Council's (RAC) Standards and Guidelines.

Many of the sites that are proposed for drill and aerial seeding treatments burned with moderate intensity. Analysis of these burned area and the associated range sites were completed to determine the suitability and location of the drill and aerial seeding treatments. Although some recovery of native perennial bunch grasses is expected to occur naturally, the amount will not be adequate to stabilize soils and reduce erosion potential. Seed mixes selected for the treatments are adapted to the range sites chosen for treatment and will facilitate a quicker vegetative response that will stabilize soils, reduce erosion, improve infiltration, provide competition for invasive non-native species, replace organic litter that was consumed by the fires, and restore important wildlife habitat.

The drill seed mix consists primarily of native seeds in order to promote the native integrity of the burn areas. However, Siberian wheatgrass is proposed to be seeded in lower elevation sites with low production capabilities and are subject in invasion by cheatgrass. If the treatment is successful, these species will limit additional resource damage and/or loss by reducing the occurrence and severity of run-off events along with reducing the occurrence of cheatgrass monocultures across the landscape.

Forage kochia will be utilized as one of the aerial seed mixes in order to provide stabilization to less productive range sites that were impacted by the Elephant Head Fire along with rehabilitation of wildlife habitat that will not be able to recover naturally. Forage kochia will also be used to aid in limiting the invasion of cheatgrass, which was present in the understory prior to the fire. The remaining seed mixes consist of native species that will allow for recovery in areas of steep terrain and that are inaccessible to range drills. These species will again promote the native integrity of the burn areas while allowing for recovery of wildlife habitat, slowing run-off events, and reducing additional resource damage and/or loss to invasive species.

Literature, research and implementation of previous Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) plans has shown success with the timing and application methods that will be utilized to implement the seeding treatments. It is expected that vegetation establishment will be successful on all sites although the presence or absence of timely moisture will be a limiting factor.

The proposed temporary fences for the Elephant Head Fire will be built in conjunction with existing fences to keep livestock off the burned area to allow seedling establishment and native release of vegetation present within the burn areas. Fencing within the South Shoshone HMA will be constructed in such a way as to be visible to horses and will have at least one gate installed per mile and/or every corner, in accordance with the Normal Fire Rehabilitation Plan Decision Record. Exclusion of livestock grazing is necessary to allow seedling establishment, restore plant vigor and seed production, to allow re-establishment of preferred species and to deter invasion of undesirable species. Grazing decisions that will remove grazing from these areas on a temporary basis will allow the establishing vegetation to develop effective root depths and root reserves. The establishment of vegetation will reduce the amount of soil loss from wind and water erosion. Seeding, while aiding in site stabilization, will also provide cover and forage for wildlife populations and nesting habitat for migratory birds. Successful seeding will help reduce runoff and trap sediment, which will help prevent further degradation.

The construction of erosion control structures will be necessary to aid in limiting the impacts to the drainages and associated human life and property within regions of the Shoshone Mountains. The erosion control structures, when strategically placed, will slow run-off, trap sediment, and reduce erosion and flow rates on the steep gravelly loam soils associated with the burn area. In slowing overland flows, trapping sediment, and reducing erosion potentials, the structures will aid in the protection of springs and seeps, down-gradient pastures, and human life and property.

Pursuant to Section 106 of the national Historic Preservation Act, the lead Federal agency is required to take historic properties into account prior to implementing Federal Undertakings. Cultural resource inventories will be conducted on areas proposed for ground disturbing stabilization treatment (temporary fence construction, drill seeding, straw dam erosion control structures, etc.). These inventories will be conducted prior to implementation of the proposed treatments in order to identify and avoid cultural resources determined by the BLM to be eligible for the National Register.

The proposed action conforms to the Shoshone-Eureka Resource Management Plan (RMP), as amended, the Normal Fire Rehabilitation Plan Environmental Assessment NV060-EA93-038 and Decision Record/Finding of No Significant Impact dated March 1994 and the Northeastern Great Basin Resource Area Council's (RAC) Standards and Guidelines. The proposed treatments are specifically accounted for in the Normal Fire Rehabilitation Plan and the Northeastern Great Basin RAC Standards and Guidelines Appendix A – Vegetation Guidelines.

### **Monitoring:**

Through the development of the Emergency Stabilization and Burned Area Rehabilitation Plans, the BMFO ES&R interdisciplinary team has recommended vegetation treatments to stabilize soils, prevent the invasion of non-native invasive and/or noxious weed species, and to re-introduce vegetative species to the range sites. Monitoring will be completed to analyze effectiveness and success of these treatments. Weed inventories will also occur throughout the monitoring period to determine if treatment of noxious weeds within the burn areas is necessary.

All vegetation treatments will be monitored for effectiveness using point-intercept and frame density techniques as outlined in BLM Technical Reference 1734-4 (BLM 1999) to determine cover and density of seeded and non-seeded species during the three years following treatment implementation. Monitoring will be oriented toward addressing the following questions: 1) Have the desirable species been successfully established and do they provide sufficient cover to adequately protect the site from soil erosion? 2) Is there evidence that a self-sustaining community has established? and 3) Are vegetative reproduction and establishment of the desirable species occurring? Permanent representative monitoring sites will be established to monitor density and cover of the seeded species, native release, along with noxious and/or invasive weed encroachment. When possible, all monitoring sites will have adjacent, non-treated reference sites established to compare results of treatments. Density and cover measurements will be utilized to determine the effectiveness of ground and aerial seeding treatments. The objectives for density will be to obtain three plants per 3' square plot along the 100' transect. The objectives for cover will be to obtain 75% of perennial plant cover associated with the reference area if it is found that an adjacent reference site is available for comparison. When it is not possible to use adjacent reference sites to compare density and cover, the BMFO

will utilize the appropriate ecological or range site. These objectives have been found to be appropriate by the BMFO ES&R interdisciplinary team for a low production 5-8" precipitation zone. Vegetation treatment monitoring will be conducted by the BMFO monitoring staff during late spring to early summer, following florescence for accurate identification of species.

**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:

**§4190.1 Effect of wildfire management decisions.**

(a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and
- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

**APPEAL PROVISIONS**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 at the below address. If an appeal is taken, your notice of appeal must be filed within this office to Douglas Furtado, Assistant Field Manager, Renewable Resources, within 30 days from the effective date of this decision. The appellant has the burden of showing that the decision appealed from is in error. Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal does not automatically suspend the effect of the decision.

United States Department of the Interior  
Office of the Secretary  
Board of Land Appeals  
4015 Wilson Blvd., Arlington, Virginia 22203

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (b) **4190.1 (a)** for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named on this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

WHERE TO FILE U.S. Department of the Interior  
 NOTICE OF APPEAL. . . . Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820

SOLICITOR U.S. Department of the Interior  
 ALSO COPY TO. . . . Office of the Field Solicitor  
 Pacific Southwest Region  
 2800 Cottage Way, Room E-1712  
 Sacramento, CA 95825

A petition for a stay of a decision pending appeal 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.

### **GRAZING CLOSURE 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 CFR 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:

1. Close the burned areas within the Carico Lake Allotment impacted by the Elephant Head Fire (Refer to Map 2 for fire closure areas) for two growing seasons or until vegetation objectives specified below are attained. The closure will be in affect on March 1<sup>st</sup>, 2008.
2. Temporarily suspend 1,098 AUMs associated with Ellison Ranching Company's permitted use for the Shoshone Mountain Use Area of the Carico Lake Allotment for two growing seasons or until vegetation objectives specified are attained.
3. Temporarily suspend 1,795 AUMs associated with C Ranches permitted use for the Shoshone Mountain Use Area of the Carico Lake Allotment for two growing seasons or until vegetation objectives specified are attained.

### **RATIONALE:**

This decision is being issued in Full Force in 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 successful establishment of seeding treatments and to limit the likelihood of significant damage to natural resources. Rest

from livestock grazing is required in order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the affects of the burn prior to the re-introduction of livestock grazing. The growing season for key perennial grasses in the burned area approximately begins in April and ends in August depending upon the year and the species type.

The AUMs to be placed in temporary suspension were determined by assessing the impacts of the Elephant Head Fire to the Shoshone Mountain Use Area for Ellison Ranching Company and C Ranches. The total active grazing permitted for the Shoshone Mountain Use Area established through the 2005 Final Multiple Use Decision (FMUD) for the Carico Lake Allotment. The Elephant Head Fire impacted a portion of the Shoshone Mountain Use Area for Ellison Ranching Company. Due to the ability to herd sheep in order to avoid the burn areas, only the AUMs temporarily lost due to the burn will be impacted through this decision. This resulted in a temporary suspension of 1,098 AUMs. Due to the location of the burn for the C Ranches portion of the Shoshone Mountain Use Area, the BMFO determined that the closure of this entire use area was required in order to promote the most success in ES&R treatments and native release. This resulted in the temporary suspension of the entire active grazing use (1,795 AUMs) permitted within the Shoshone Mountain Use Area. C Ranches may apply for use within the Cortez Joint Venture Use Area, in accordance with the 2005 Carico Lake FMUD. However, such use must be applied for on an annual basis and approved by the authorized officer. Applied use will not exceed the active use remaining on the permit once the temporary suspension becomes affective.

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

#### **1. Drill and Aerial Seeding Treatments**

Achieve a minimum of two plants per 3 foot square plot along a 100 foot transect for the lower elevation, less productive range sites and four plants per 3 foot square plot along the 100 foot transect on upper elevation, higher productive range sites.

Achieve a minimum of 75% of the vegetative cover (basal and canopy) for perennial species relative to the site potential as indicated by the appropriate ecological site.

Achieve total dry weight production rates for seeded and unseeded species (minus annual species) that corresponds to the range site description and to the given precipitation year (i.e. normal and unfavorable years).

#### **2. Native Release**

Total dry weight production of perennial herbaceous species in burned areas must equal or exceed the herbaceous production on nearby unburned areas in the same or similar ecological sites.

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, an additional growing season of rest might provide.

Monitoring will be conducted annually following the growing season. Permanent monitoring sites will be established in 2008. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

**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, Assistant Field Manager for Renewable Resources 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:

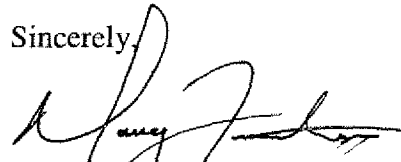
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

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,



DOUGLAS W. FURTADO  
Assistant Field Manager  
Renewable Resources

Enclosure(s)

cc: Interested Public

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Paul Inchauspe  
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Cortez Gold Mines  
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Jim Gardner  
Ellison Ranching Company  
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Joint Ventured Co-Partnership  
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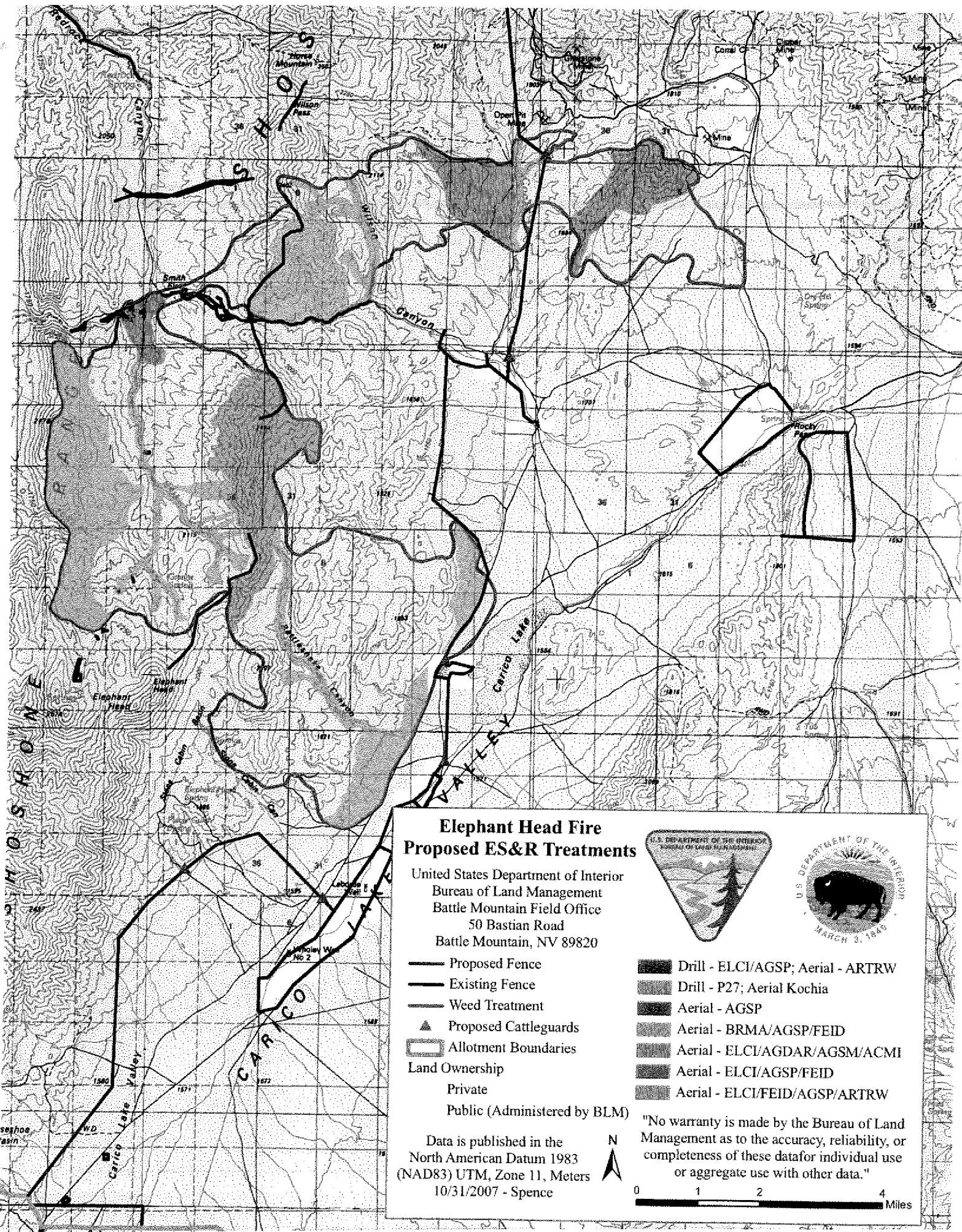
Jerry Todd  
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Eureka, NV 89316

Michael Young, Chair Battle Mountain Band Council  
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Battle Mountain, NV 89820

Chairman Lovelock Paiute Tribe  
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Davis Gonzales  
Te-Moak Tribal Council  
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Laurel Marshall  
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### Elephant Head Fire Proposed ES&R Treatments

United States Department of Interior  
Bureau of Land Management  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, NV 89820



- Proposed Fence
- Existing Fence
- Weed Treatment
- ▲ Proposed Cattleguards
- Allotment Boundaries
- Land Ownership
- Private
- Public (Administered by BLM)

- Drill - ELCI/AGSP; Aerial - ARTRW
- Drill - P27; Aerial Kochia
- Aerial - AGSP
- Aerial - BRMA/AGSP/FEID
- Aerial - ELCI/AGDAR/AGSM/ACMI
- Aerial - ELCI/AGSP/FEID
- Aerial - ELCI/FEID/AGSP/ARTRW

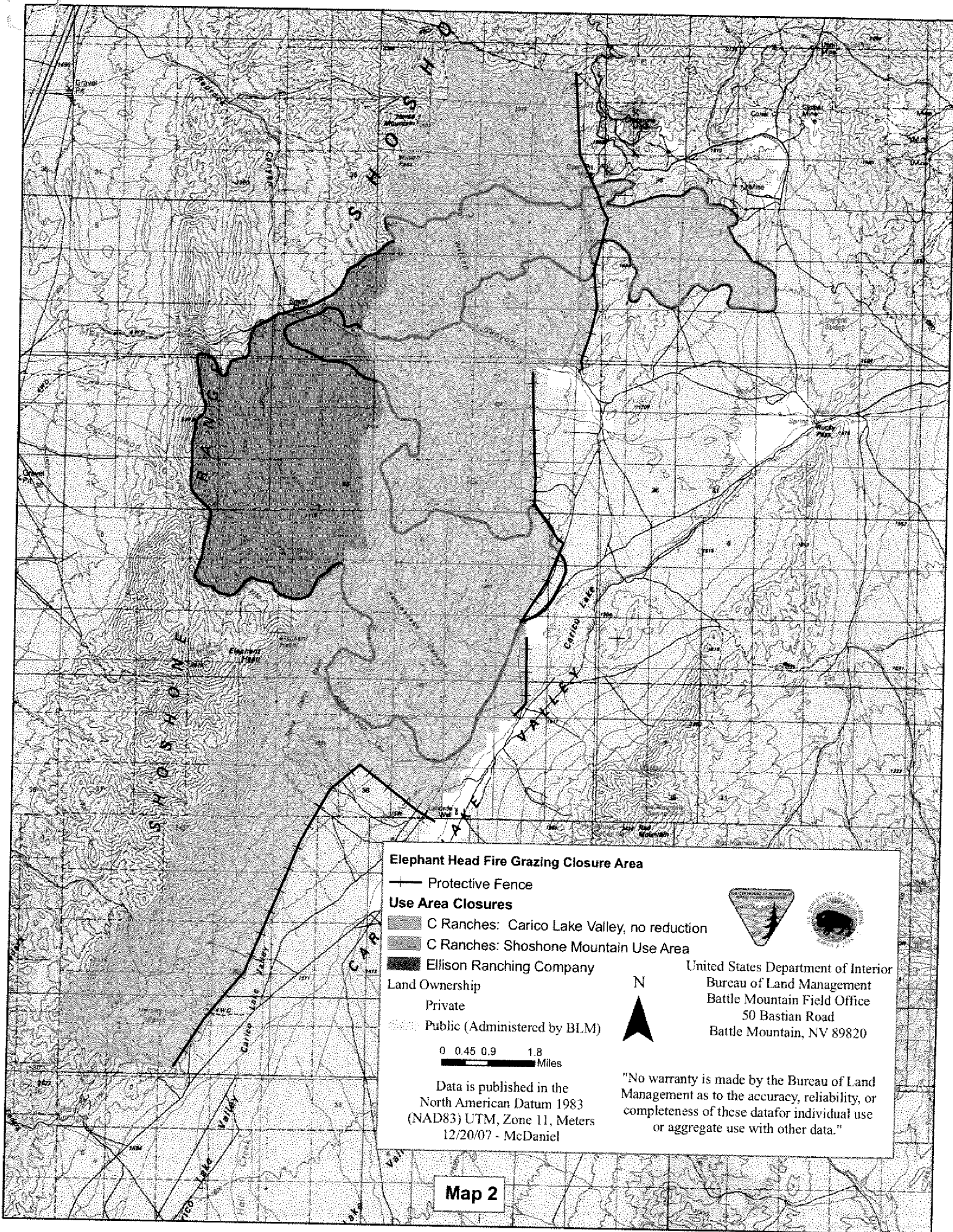
Data is published in the  
North American Datum 1983  
(NAD83) UTM, Zone 11, Meters  
10/31/2007 - Spence



"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

0 1 2 4 Miles

MAP 1



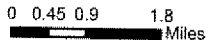
**Elephant Head Fire Grazing Closure Area**

- Protective Fence
- Use Area Closures**
- ▨ C Ranches: Carico Lake Valley, no reduction
- ▩ C Ranches: Shoshone Mountain Use Area
- Ellison Ranching Company

- Land Ownership**
- Private
  - ▤ Public (Administered by BLM)



United States Department of Interior  
 Bureau of Land Management  
 Battle Mountain Field Office  
 50 Bastian Road  
 Battle Mountain, NV 89820



Data is published in the  
 North American Datum 1983  
 (NAD83) UTM, Zone 11, Meters  
 12/20/07 - McDaniel

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."

**Map 2**