BLM

# U.S. Department of the Interior
# Bureau of Land Management

# Determination of NEPA Adequacy (DNA)

## Range - Grazing Permit/Lease Renewal on allotments within Fremont and Park County

**PREPARING OFFICE**

U.S. Department of the Interior
Bureau of Land Management

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## Range - Grazing Permit/Lease Renewal on allotments within Fremont and Park County

## DOI-BLM-CO-F020-2016-0005 DN

**Prepared by**
**U.S. Department of the Interior**
**Bureau of Land Management**
**Royal Gorge Field Office**
**Canon City, CO**

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U.S. Department of the Interior
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OFFICE: RGFO LLCOF02000

TRACKING NUMBER: DOI-BLM-CO-F020-2016-0005 DN

CASEFILE/PROJECT NUMBER: Grazing Authorization #0501975, Art & Heath Mills and Grazing Authorization #0504783, John E. Rusher

PROPOSED ACTION TITLE/TYPE: Range - Grazing Permit/Lease Renewal on allotments within Fremont and Park County

LOCATION/LEGAL DESCRIPTION:

| ALLOTMENT | COUNTY | LEGAL | PUBLIC ACRES |
|---|---|---|---|
| 12 Mile Park North #02697 | Fremont County | T17S, R71W, Section 30 | 30 |
| Grape Creek. #05073 | Fremont & Custer County | See below | 15,233 |

T20S., R71W., Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32

T20S., R72W., Sections 1, 11, 12, 13, 14, 15, 23, 24, 25, 26, 35, 36

T20S.,T21S., R71W., Sections 6, 7

T21S., R72W., Sections 1, 2, 11, 12, 13, 14

APPLICANT: Art & Heath Mills— 12 Mile Park North Allotment and

John E. Rusher – Grape Creek Allotment

# A. Description of Proposed Action and any applicable mitigation measures

The proposed action is to continue current management and renew the permits/leases for the allotments as currently scheduled for a new term of ten years. Grazing use on the allotments will remain as previously scheduled. There will be no changes in livestock numbers; authorized grazing dates, times, authorized levels of use or terms and conditions. The allotments are currently scheduled as follows:

| Allotment | Number | Kind | Grazing Period Begin – End | % Public Land | Type Use | AUMs |
|---|---|---|---|---|---|---|
| 12 Mile Park North | 1 | Cattle | 03/01 – 02/28 | 100 | Custodial | 3 |
| Grape Creek* | 67 | Cattle | 06/16 – 10/15 | 100 | Active | 268 |
| *Blackburn Pasture | | | 06/16 – 07/21 | | | |
| *Deadmule Pastue | | | 07/22 – 08/31 | | | |
| *Bear Gulch Pasture | | | 09/01 – 10/15 | | | |

Existing Terms & Conditions:

12 Mile Park North Allotment:

1. Grazing use on the allotment is authorized under Custodial Management. Although the permit/lease shows a specific number of livestock authorized on public land, the permittee is not restricted to that specific livestock number nor restricted to specific grazing dates as long as the authorized amount of grazing use on public land is not exceeded and the allotment is used in conjunction with the unfenced private land.

2. The authorized amount of grazing use on this allotment is the estimated carrying capacity of the allotment and is expected to result in utilization levels of 40% - 60% of the total annual forage production of key forage species. Utilization will be limited to 40% - 60% on grass forage species during the growing season and 80% of previous year's growth during the dormant season. Utilization on woody riparian species such as cottonwoods and willows will be limited to 60% of current year's growth. If use levels reach these levels, livestock will be removed from public land.

3. The permittee and all persons associated with the allotment operations shall not damage, destroy, remove, move or disturb any objects or sites of cultural, paleontological or scientific value, such as historic or prehistoric resources, graves or grave markers, human remains, ruins, cabins, rock art, fossils and artifacts. If in connection with allotment operations under this authorization any of the above resources are encountered, the permittee shall protect such resources and immediately notify the BLM authorized officer of the findings.

4. The grazing schedule complies with Guidelines for Grazing Management in Colorado and is designed to help public land achieve Standards for Public Land Health. In the event that the proposed grazing schedule fails to help public land achieve Standards for Public Land Health, grazing use on any of these allotments may be revised at any time.

| Allotment Summary (AUMs) | | |
|---|---|---|
| Authorized Livestock Grazing Use | | |
| Active | Suspended | Total |
| 3 | 0 | 3 |

Grazing use on the 12 Mile Park North Allotment was evaluated under NEPA Analysis:

CO-200-2001-0094 EA and CO-200-2006-0096 DNA (spit off a portion of Underhill Allotment to the newly established 12 Mile Park North Allotment).

Grape Creek Allotment:

1. The dates for each pasture will be as follows:

   a. Blackburn Pasture – 6/16 -7/21

   b. Deadmule Pasture – 7/22 -8/31

   c. Bear Gulch Pasture - 9/1 – 10/15

   The dates are approximate and actual move dates will be determined by utilization standards as described below, for pasture location see the map.

2. Maximum utilization levels will be as follows:

   a. Blackburn Pasture-60% on Riparian Grasses and Sedges,

   b. Deadmule Pasture-60% on Riparian Grasses and Sedges,

c. Bear Gulch Pasture-50% on Riparian Grasses and Sedges

Allotment-wide: 60% of Upland Grasses, 50% of Current Years Growth on Cottonwoods and Willows.

3. Permittee may be required to ride to improve distribution of livestock if utilization levels are exceeded.

4. Salt, mineral, and protein tub locations will be located in such a way to minimize damage to riparian areas.

5. The permittee and all persons associated with the allotment operations shall not damage, destroy, remove, move or disturb any objects or sites of cultural, paleontological or scientific value, such as historic or prehistoric resources, graves or grave markers, human remains, ruins, cabins, rock art, fossils and artifacts. If in connection with allotment operations under this authorization any of the above resources are encountered, the permittee shall protect such resources and immediately notify the BLM authorized officer of the findings.

6. The Grazing Permit has been fully processed in accordance with all applicable laws and regulations. The grazing schedule complies with Guidelines for Grazing Management in Colorado and is designed to help public land achieve Standards for Public Land Health. **In the event that the proposed grazing schedule fails to help public land achieve Standards for Public Land Health, grazing use on any of these allotments may be revised at any time.**

| Allotment Summary (AUMs) | | |
|---|---|---|
| Authorized Livestock Grazing Use | | |
| Active | Suspended | Total |
| 268 | 0 | 268 |

Grazing use on the Grape Creek Allotment was evaluated under NEPA Analysis:

CO-BLM-200-2009-0087 EA.

Grazing use as described in the NEPA document referenced above conforms with guidelines for livestock grazing in Colorado and will help achieve standards for public land health.

The allotments listed above have been analyzed under an Environmental Assessment and have undergone interdisciplinary land health evaluations. For specific information related to the analysis of these allotments, see the list of NEPA documents located below for the associated allotment EA reference.

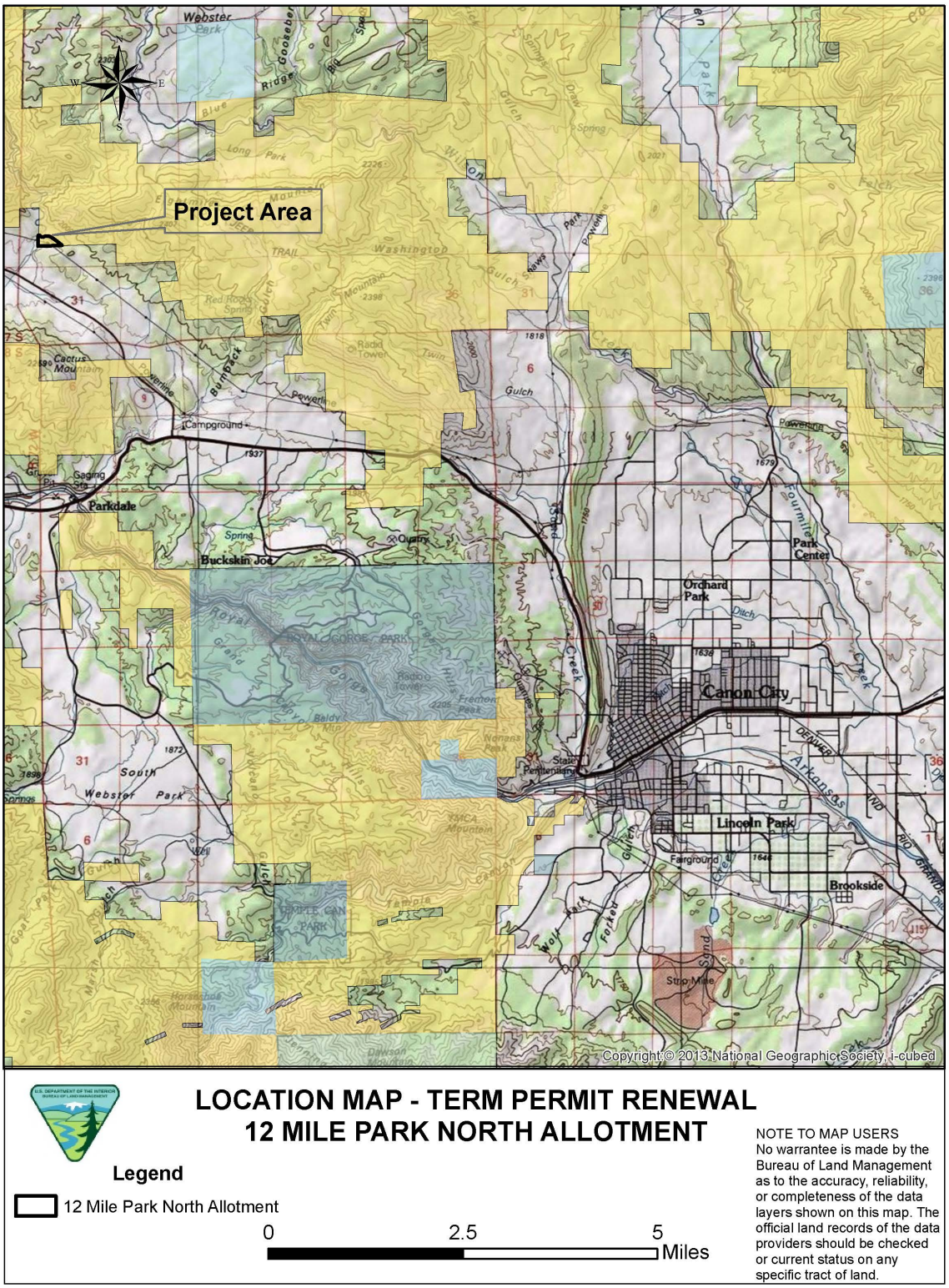


**Figure 1.1. Location Map: 12 Mile Park North Allotment**

*Chapter 1 Determination of NEPA Adequacy (DNA)*
*A. Description of Proposed Action and any applicable mitigation measures*

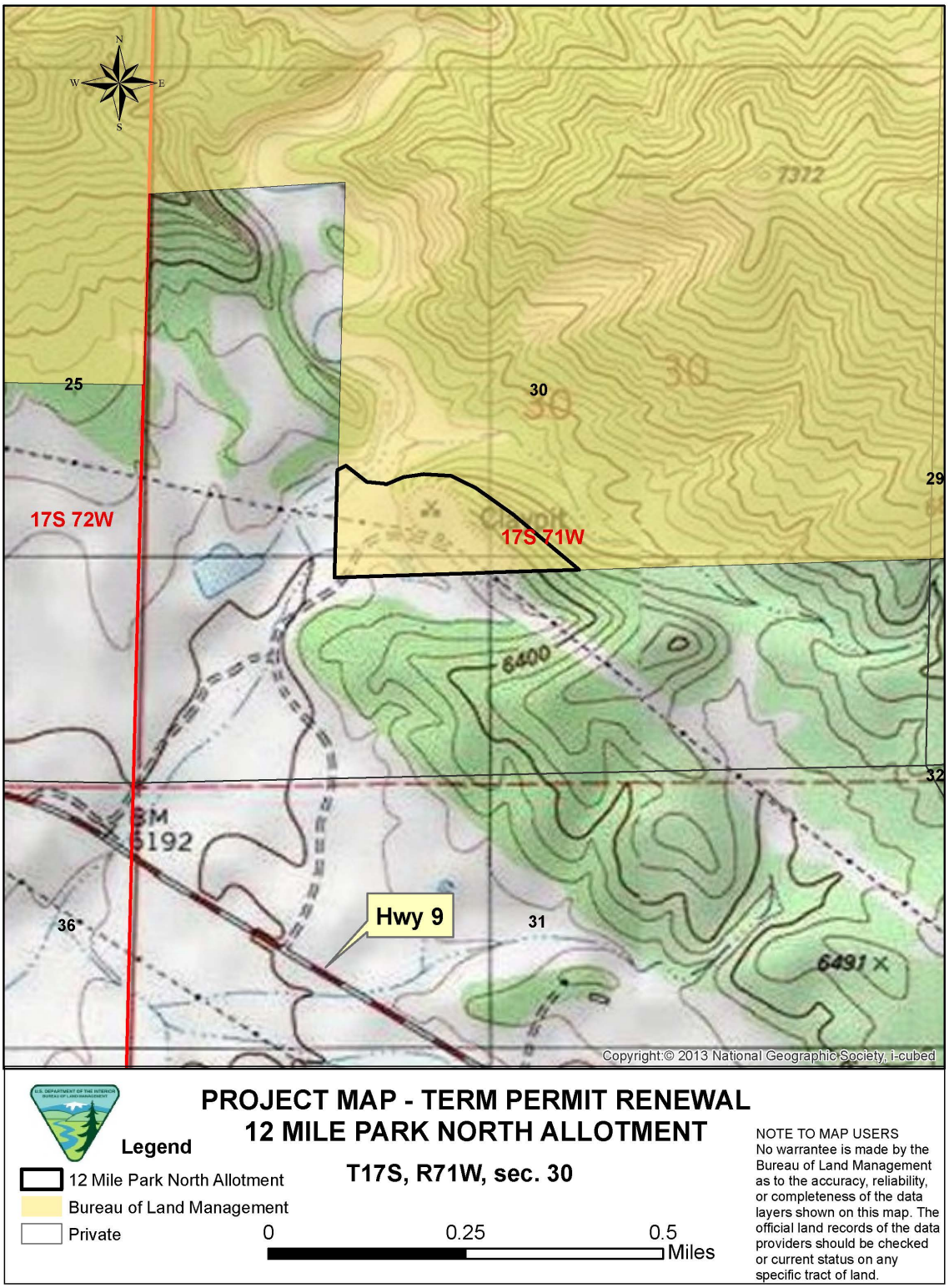


**Figure 1.2. Project Map: 12 Mile Park North Allotment**

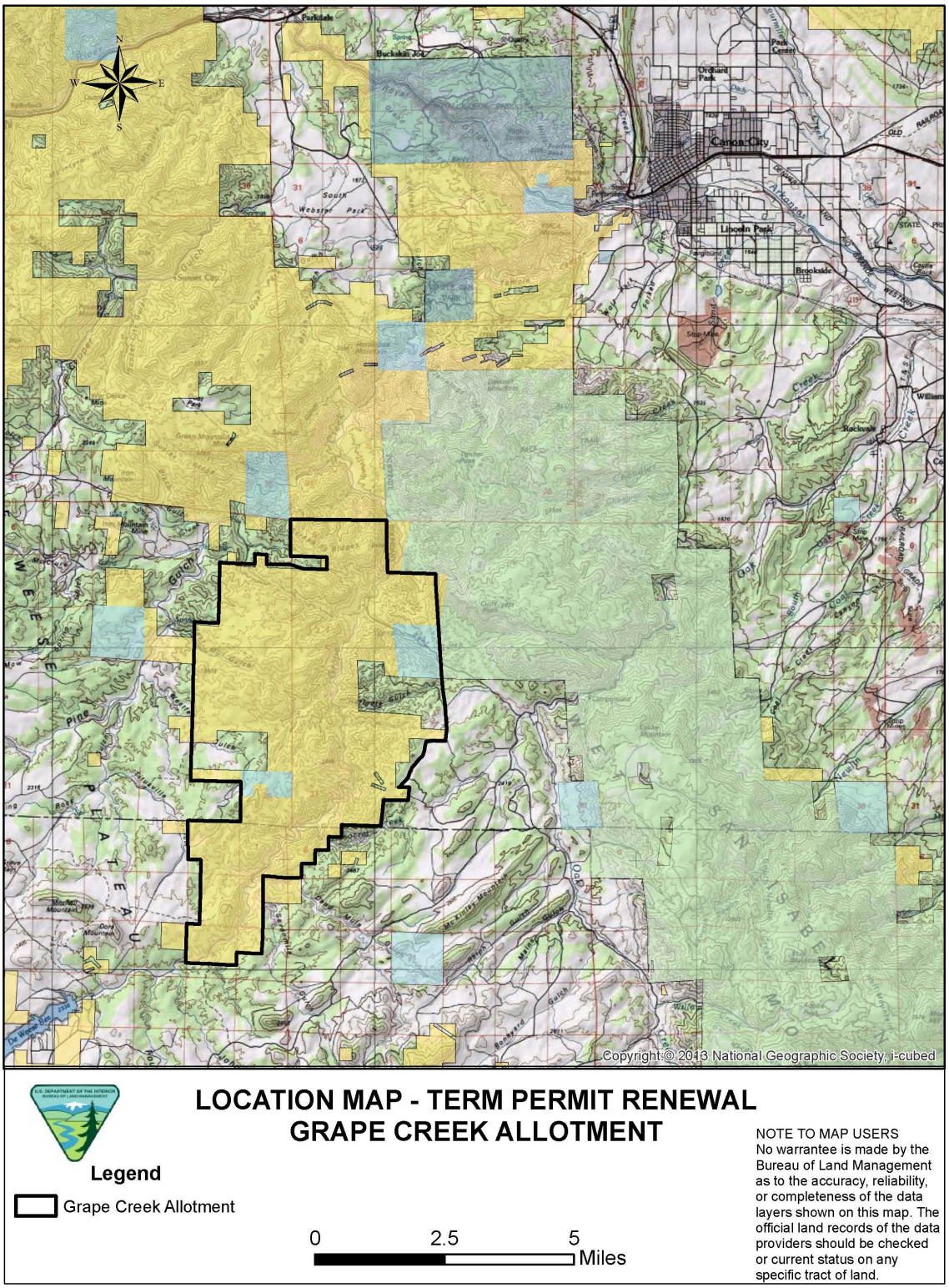


**Figure 1.3. Location Map: Grape Creek Allotment**

*Chapter 1 Determination of NEPA Adequacy (DNA)*
*A. Description of Proposed Action and any applicable mitigation measures*

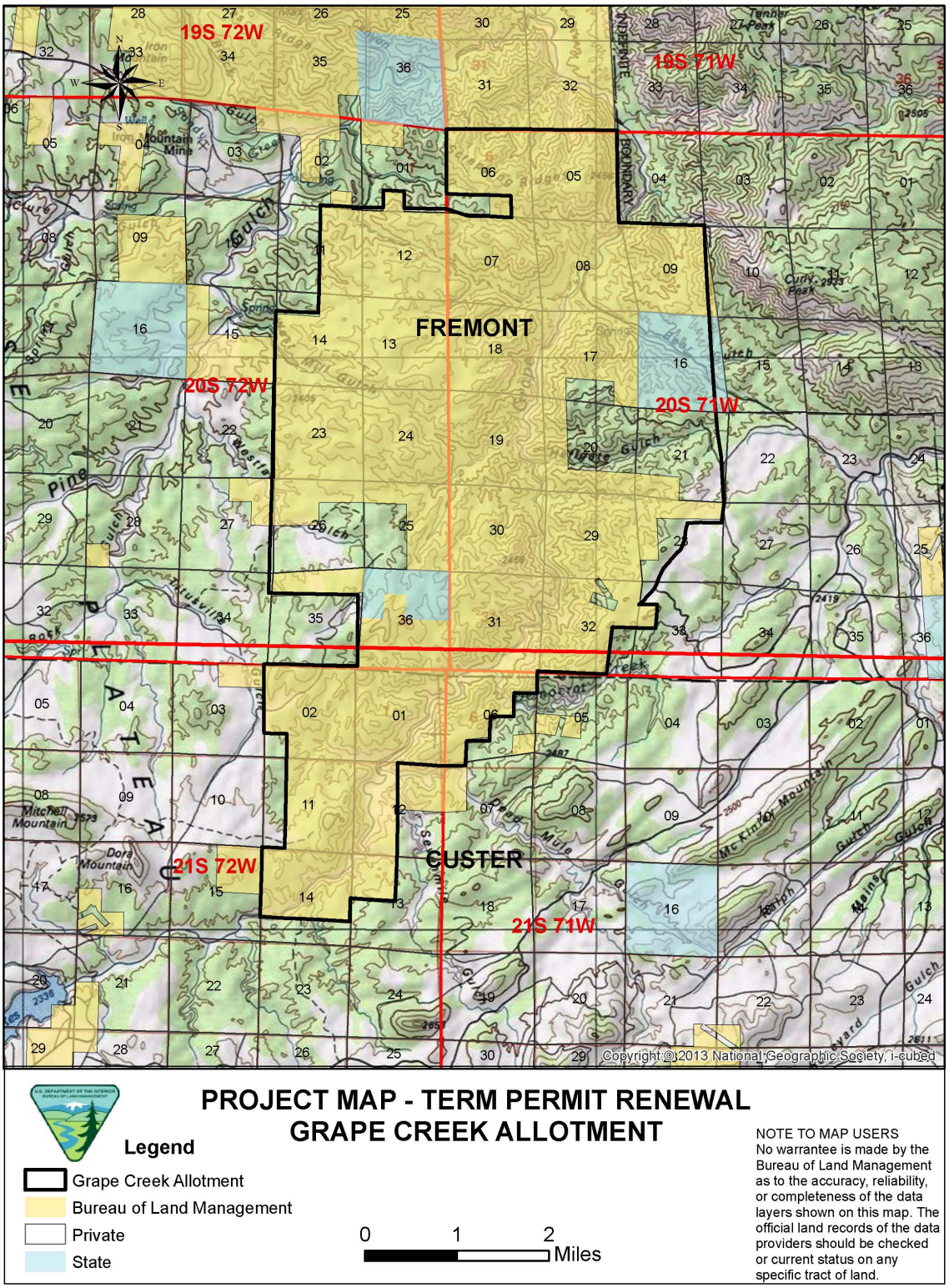


**Figure 1.4. Project Map: Grape Creek Allotment**

# B. Land Use Plan Conformance

| | |
|---|---|
| LUP Name: Royal Gorge Resource Management Plan | Date Approved: 05/13/1996 |
| Other Document: Final Livestock Grazing EIS | Date Approved: 1995 |
| Other Document | Date Approved |

**The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions):** 5-4, C-30, C-37, C-38, C-41, C-42, C-43, & C-44

Decision Language:

5-4: Grazing is authorized on 123 allotments.

C-30: Base livestock grazing management on the 1981 Royal Gorge Area Grazing Environmental Impact Statement. Continue to use allotment management plans (AMPs) on an interim basis until replaced with IAPs.

C-37: Determine the grazing capacity accuracy on Custodial Allotments.

C-38: Continue to construct range improvement projects on an as-needed basis. Complete NEPA documentation on each project as needed.

C-41: Adjustments in grazing use will be made by allotment on a case by case basis. Changes in number of livestock, season of use, duration of use, and class of livestock can be made based on monitoring studies and inventory data.

C-42: The grazing treatment on Improve category allotments will require a rest standard to allow a time period for forage species to recover from the last grazing period before the plants are re-grazed.

C-43: Maximum allowable utilization on allotments with rotational grazing or dormant season grazing will 80% annual production on grass species and 60% of annual production on shrub species.

C-44: On single pasture allotments with season long spring/summer grazing utilization will be held to the 40 to 60% range on forage species in lieu of a rest standard.

# C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

**List by name and date all applicable NEPA documents that cover the proposed action.**

12 Mile Park North Allotment Term Grazing Permit/Lease Renewal

CO-200-2001-0094 EA (was part of Underhill Allotment at this time) .

Date Approved: September 18, 2001. and

CO-200-2006-0096 DNA (spit off a portion of Underhill Allotment to the newly established 12 Mile Park North Allotment).

Date Approved: July 18, 2006.

Grape Creek Allotment was evaluated under NEPA Analysis:

CO-BLM-200-2009-0087 EA

Date Approved: December 2, 2009.

**List by name and date other documentation relevant to the proposed action (e.g. biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).**

Public Land Health Assessment 2001 and 2008

Date Approved: September, 2001 and 2008

# D. NEPA Adequacy Criteria

**1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

The RMP and Grazing EIS analyzed livestock grazing by allotment with the mandatory terms and conditions. The previous EA's analyzed grazing use and permit renewal on the same allotments. The Proposed Action is substantially the same action and at the site specifically analyzed in the existing NEPA documents(s). Grazing use on the allotments will remain as previously scheduled. There will be no changes in livestock numbers; authorized grazing dates, times, authorized levels of use or terms and conditions.

**2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource value?**

Yes. The RMP/EIS and EA considered a range of alternatives. The existing EA for permit renewal was conducted in 2001 and 2009 and continues to be appropriate for current conditions. The EA included a proposed action alternative, alternative B to renew the current grazing permit with changes in the allotment management classification, and a no grazing alternative that was considered but not carried forward that were analyzed in the document. No new environmental conditions or change in resource values have arisen that would invalidate those alternatives analyzed.

**3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessments, recent endangered species listings, updated lists of BLM sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?**

The information and circumstances surrounding the grazing permits in this renewal are unchanged from the previous analysis.

**4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

Yes. There are no negative direct or indirect impacts associated with the proposed action. The impacts analyzed in the permit renewal EA remain unchanged.

**5. Are there public involvement and interagency reviews associated with existing NEPA document(s) adequate for the current proposed action?**

Yes. Public scoping was conducted for the previous NEPA analysis. No issues were brought forward as a result of this scoping.

# E. Persons/Agencies/BLM Staff Consulted

**Table 1.1. Interdisciplinary Team**

| INTERDISCIPLINARY TEAM REVIEW | | | |
|---|---|---|---|
| **NAME** | **TITLE** | **AREA OF RESPONSIBILITY** | **Initials/date** |
| Lara Duran | Wildlife Biologist | Terrestrial Wildlife, T&E, Migratory Birds | LD, 12/1/15 |
| Chris Cloninger | Range Management Spec. | Range, Vegetation, Farmland | CC, 11/3/2015 |
| John Lamman | Range Management Spec. | Weeds | JL, 12/03/15 |
| Dave Gilbert | Fisheries Biologist | Aquatic Wildlife, Riparian/Wetlands | DG, 11/24/15 |
| Stephanie Carter | Geologist | Minerals, Paleontology, Waste Hazardous or Solid | SSC, 11/13/15 |
| Trevor Birt | Hydrologist | Hydrology, Water Quality/Rights, Soils | TB, 11/24/15 |
| Ty Webb | Fire Management Officer | Air Quality, Fire Management | TW, 11/4/15 |
| Dave Parker | Cadastral Surveyor | Cadastral Survey | |
| Kalem Lenard | Outdoor Recreation Planner | Recreation, Wilderness, LWCs, Visual, ACEC, W&S Rivers | KL, 11/3/2015 |
| Jaremiah Moore | Forester | Forestry | JM, 11/16/2015 |
| Michael Troyer | Archaeologist | Cultural, Native American | MT, 11/9/2015 |
| Greg Valladares | Realty Specialist | Realty | GDV, 01/05/2016 |
| | | | |

**Note**

Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

REMARKS:

Cultural Resources: Pursuant to BLM Instruction Memorandum Number CO-2002-029, RGFO cultural resources staff conducted a literature review of previous inventories and sites recorded on the public land in the allotment areas [see Reports CR-RG-13-148 R and CR-RG-15-169 R]. Based on the information collected during the literature review, it was determined that additional

inventory is not necessary as the 12 Mile Park North Allotment has been satisfactorily inventoried and no historic properties have been identified, and the Grape Creek Allotment is presently part of an ongoing, proactive inventory for cultural resources and additional inventory is conducted annually under Section 110 of the National Historic Preservation Act. No additional work is presently necessary on the allotments.

Native American Religious Concerns: The literature review indicated that no traditional cultural properties have been recorded within the allotment boundaries. Native American Tribal consultation has been completed for these allotments. There is no other known evidence that suggests the project area holds special significance for Native Americans. Therefore, it is unlikely that any traditional cultural properties or other sites of concern to the tribes will be affected by grazing.

Threatened and Endangered Species: Since the 2009 and 2006 analysis, the Threatened, Endangered and Proposed species list for Fremont County was changed as follows: bald eagle was de-listed in 2010. Delisted species are included on the BLM Sensitive Species list for five years post de-listing. While the proposed allotments provide foraging habitat for bald eagle, the proposal for these permits would not have an effect on foraging habitat or behaviors of these birds. Canada lynx and black-footed ferret were described as having suitable habitat within Fremont County but the analysis did not drop those species from analysis or carry them forward. For clarification, the proposed allotments do not provide suitable habitat for Canada lynx or black-footed ferret. The proposed allotments are not within a Lynx Analysis Unit and are not within a Linkage Area. There would be NO EFFECT to Canada lynx or to black-footed ferret. There are no other changes to Threatened, Endangered and Proposed species within the proposed allotment and the previous analysis remains applicable and relevant. No other analysis is needed for Threatened, Endangered and Proposed species. Section 7 consultation is complete.

BLM Sensitive Species & Migratory Birds: The 2009 and 2006 analysis addressed effects to BLM sensitive species and migratory birds. That analysis remains applicable and relevant.

Minerals: Federal minerals in the proposed project area are open to mineral location, therefore requiring coordination between surface uses as applicable. If there are unpatented mining claims that are active in the proposed project location, any associated claim markers encountered during project implementation cannot be disturbed (reference CO-2012-013).

Wastes, solid or hazardous: It is assumed that conditions associated with the proposed project site are currently clean and that no contamination is evident. No hazardous material, as defined by 42 U.S.C. 9601 (which includes materials regulated under CERCLA, RCRA and the Atomic Energy Act, but does not include petroleum or natural gas), will be used, produced, transported or stored during project implementation. Nothing in the analysis or approval of this action by BLM authorizes or in any way permits a release or threat of a release of hazardous materials (as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations) into the environment that will require a response action or result in the incurrence of response costs.

MITIGATION:

Wastes, solid or hazardous: If the project involves oil or fuel usage, transfer or storage, an adequate spill kit and shovels are required to be onsite during project implementation. The project proponent will be responsible for adhering to all applicable local, State and Federal regulations in the event of a spill, which includes following the proper notification procedures in BLM's Spill

Contingency Plan. If concrete is proposed as part of the project, all concrete washout water needs to be contained and properly disposed of at a permitted offsite disposal facility.

## Conclusion

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirement of NEPA.

/s/ Christine Cloninger
Signature of Project Lead

/s/ Kyle Sullivan acting
Signature of Supervisor

/s/ Martin Weimer
Signature of NEPA Coordinator

/s/ Keith E. Berger 1/22/16
Signature of the Responsible Official Date

**Note:**

The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute and appealable decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.