



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
50629 Highway 6 and 24
Glenwood Springs, Colorado 81601
www.co.blm.gov

CATEGORICAL EXCLUSION

NUMBER: CO140_2008_051CE

CASEFILE/PROJECT NUMBER: COC72757

PROJECT NAME: Land use permit (2920) for facilities on BLM Managed Lands

LEGAL DESCRIPTION: Lot 6, Section 14, T. 4 S., R. 83 W.,
Sixth Principal Meridian, Eagle County, Colorado.

APPLICANT: Chris P. Jouflas

DESCRIPTION OF PROPOSED ACTION:

Rectify land occupancy trespass. Applicant has an existing right-of-way on BLM public lands for access to his private land, case file No. COC-60382. However, applicant is using all of BLM public lands for a temporary staging and construction site for fill dirt. The applicant has permits from both Eagle County and CDOT for this operation, but all parties failed to get authorization from the BLM. Applicant is having twenty plus commercial-sized trucks haul fill from Vail, Colorado. The purpose of the operation is to fill applicant's ponds with fill dirt. BLM public lands are being utilized for large boulder staging, ingress and egress routes for the commercial trucks. The project is scheduled to be completed by September 2008.

The land use permit (2920) would rectify the land use trespass, and provide stipulations for BLM public lands to be rehabilitated.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for and is in conformance with (43 CFR §1610.5 and § 2800, BLM 1617.3) the following plan:

Name of Plan: Record of Decision and Glenwood Springs Resource Management Plan.

Date Approved: January, 1984; revised in 1988; amended in November 1991 - Oil and Gas Leasing and Development - Final Supplemental Environmental Impact Statement; amended Nov. 1996 - Colorado Standards and Guidelines; amended in August 1997 - Castle Peak Travel Management Plan; amended in March 1999 - Oil and Gas Leasing & Development Final Supplemental Environmental Impact Statement; amended in November 1999 - Red Hill Plan Amendment; and amended in September 2002 - Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance.

Decision Number/Page: Page 5, Administrative Actions

Decision Language: Various types of administrative actions will require special attention beyond the scope of this plan. They include issuance of permits for "...land actions, including issuance of grants, leases, permits and resolution of trespass..."

CATEGORICAL EXCLUSION REVIEW:

The proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, Number: E. Realty No. 20. None of the following exceptions in 516 DM 2, Appendix 2, apply.

(20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

The Departmental Manual (516 DM 2.3A(3) & App. 2) requires that before any action described in the following list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or an EIS. When no exceptions apply, the following types of bureau actions normally do not require the preparation of an EA or EIS.

None of the following exceptions in 516 DM 2, Appendix 2, apply.

EXCLUSION	YES	NO
1. Have significant impacts on public health or safety.		X
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		X
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		X
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such		X

sacred sites (Executive Order 13007).		
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		X



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INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Cheryl Harrison	Archaeologist	Cultural and Native American Concerns
Kay Hopkins	Outdoor Recreation Planner	ACEC, VRM, WSR, Wilderness
Carla DeYoung	Ecologist	T/E/S Plants, Vegetation
Desa Ausmus	Wildlife Biologist	Wildlife, T&E Wildlife, Migratory Birds
Tom Fresques	Fisheries Biologist	Fisheries, T&E Fish
Jeff O'Connell	Hydrologist	Soil, Air, Water
Dereck Wilson	Range Mgt Specialist	Invasive, Non-native Species

REMARKS/MITIGATION:

Cultural Resource/Native American Concerns: Two Class III inventories (GSFO#856 and 1028) encompass the proposed ROW. No historic properties or areas of Native American concern were identified. The following needs to be added to the permit and adhered to by all personnel involved in the proposed action particularly the removal actions.

The National Historic Preservation Act (NHPA) requires that if newly discovered cultural resources are identified during project implementation, work in that area must stop and the agency Authorized Officer notified immediately (36 CFR 800.13). The Native American Graves Protection and Repatriation Act (NAGPRA), requires that if inadvertent discovery of Native American Remains or Objects occurs, activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)). Further actions also require compliance under the provisions of NHPA and the Archaeological Resource Protection Act.

Invasive, Non-native Species: The surface disturbance associated with the proposed action will likely create a niche for the invasion of noxious weeds or other invasive species. The applicant will be required to reseed the disturbed area with a certified native weed-free seed mixture identified in the vegetation mitigation section below. The applicant will monitor the project area for three consecutive years for the presence of any noxious weeds and will be responsible for promptly controlling any noxious weeds on the Colorado State List A or B (except redstem filaree) within the area disturbed. If the applicant chooses to use herbicides as the control method on public lands, a Pesticide Use Proposal shall be submitted to the BLM and approved prior to initiating any herbicide spraying.

T&E Species: The trespass area does not provide habitat for any federally listed T&E wildlife species, therefore, no impacts have occurred to these species. The public lands within the project area do constitute potential habitat for the BLM Sensitive plant, Harrington’s penstemon. However, given the degree of disturbance in this area, the habitat has been altered to the point where it is no longer suitable habitat for this species. No additional impacts to this species would result from the continuation of the proposed action.

Vegetation:

The proposed action will likely destroy or remove native vegetation and cause soil compaction. In order to restore native vegetation and discourage weed encroachment on the site, the following mitigation is required.

Seed bed preparation. All disturbed areas on public land (other than the applicant’s existing right-of-way to access private land) shall be leveled and ripped. Ripping shall be to a minimum depth of 18 inches, with a maximum furrow spacing of 2 feet. Ripping shall be conducted in two passes at perpendicular directions. Final seedbed preparation shall include discing of the ripped surfaces to smooth the coarse clods, furrows, and windrows. Discing shall be to a depth of 4 to 6 inches and shall be conducted in two passes in perpendicular directions, with the final pass along the contour (across the slope). If soils are too rocky to disc, rake/harrow the ripped surface to smooth it as much as possible.

Seed Mix

The following seed mix shall be applied to the disturbed areas:

<i>Species of Seed</i>	<i>Variety</i>	<i>Application Rate(PLS lbs/ac)</i>
Bluebunch wheatgrass	Anatone, P-7, Secar	2.5
Slender wheatgrass	Primar, Pryor, San Luis	3.0
Indian ricegrass	Nezpar, Paloma, or Rimrock	2.0
Canby bluegrass	Canbar	<u>0.5</u>
TOTAL		10.0

The seed shall be **certified free of noxious weeds**. Seed may contain up to 2.0 percent of "other crop" seed by weight, including the seed of other agronomic crops and native plants; however, a lower percentage of other crop seed is recommended. Seed tags or other official documentation shall be supplied to the BLM Glenwood Springs Field Manager at least 14 days before the date of proposed seeding for acceptance. Seed that does not meet the above criteria shall not be applied to public lands.

Seeding Procedures

Seeding should be conducted no more than 24 hours following completion of final seedbed preparation. Revegetating the disturbed area promptly will help prevent erosion and invasion by weeds and provide food and cover for wildlife. **Seed should be installed by drill-seeding to a depth of 0.25 to 0.5 inch.**

Mulch should be applied within 24 hours following completion of seeding. Mulch should consist of crimping certified weed-free straw or certified weed-free native grass hay into the soil.

BLM will inspect the progress of revegetation/reclamation. Acceptable reclamation is defined in Appendix I (Surface Reclamation) of the 1998 Draft Supplemental EIS (DSEIS). If, after two growing seasons, BLM determines that the revegetation is unsuccessful, the applicant shall implement subsequent reseedings until reclamation standards are met.

NAME OF PREPARER: Carole Huey, Realty Specialist

DATE: March 17, 2008

DECISION AND RATIONALE: I have reviewed this Categorical Exclusion Report and have decided to implement the proposed action.

This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

SIGNATURE OF AUTHORIZED OFFICIAL:


Associate Field Manager

DATE SIGNED: 3/17/08