



United States Department of the Interior
 BUREAU OF LAND MANAGEMENT
 Colorado River Valley Field Office
 2300 River Frontage Road
 Silt, Colorado 81652
www.co.blm.gov



CATEGORICAL EXCLUSION

DOI-BLM-CO-N040-2014-0037-CX

A. Background

BLM Office: Colorado River Valley Field Office

Permit/Serial/Case File No.: 0504925

Proposed Action Title/Type: Grazing Preference Transfer

Location of Proposed Action: T9S, R88W, Sixth Principal Meridian, Garfield County, Colorado.

Description of Proposed Action: The proposed action is to transfer grazing preference from base property control by John Nieslanik & Sons #0507611 and base property controlled by Martin James Nieslanik #0503701 to Nieslanik Beef, LLC #0504925. The proposed action is in accordance with 43 CFR 4110.2-3.

Grazing Preference (AUMS) to be transferred:

Authorization Name & No.	Allotment Name & No.	Active AUMs	Suspended AUMs	Permitted AUMs
John Nieslanik & Sons (#0507611)	Driveway Common #08338	10	0	10
	Crown Common #08334	41	0	41
	North Thompson Creek #08348	61	0	61

Authorization Name & No.	Allotment Name & No.	Active AUMs	Suspended AUMs	Permitted AUMs
Martin James Nieslanik (#0503701)	Driveway Common #08338	31	0	31

Grazing Preference (AUMS) after transfer:

Authorization Name & No.	Allotment Name & No.	Active AUMs	Suspended AUMs	Permitted AUMs
Nieslanik Beef, LLC (#0504925)	Driveway Common #08338	41	0	41
	Crown Common #08334	41	0	41
	North Thompson Creek #08348	61	0	61

B. Land Use Plan Conformance:

Name of Plan: Glenwood Springs Resource Management Plan

Date Approved: Jan. 1984, revised 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; amended in September 2009; and amended in October 2012 - Approved Resource Management Plan Amendments/ Record of Decision (ROD) for Solar Energy Development in Six Southwestern States.

The Proposed Action is in conformance with the LUP because it is specifically provided for in the following LUP decision(s):

Decision Language: The action is in conformance with Administrative Actions (pg. 5) and Livestock Grazing Management (pg. 20). Administrative actions states, “Various types of actions will require special attention beyond the scope of this plan. Administrative actions are the day-to-day transactions required to serve the public and to provide optimal use of the resources. These actions are in conformance with the plan”. The livestock grazing management objective as amended states, “To provide 56,885 animal unit months of livestock forage commensurate with meeting public land health standards.”

C. Compliance with NEPA

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Section: D, Range Management, Number 1, Approval of transfers of grazing preference.

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 sacred sites (Executive Order 13007).		X
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

INTERDISCIPLINARY REVIEW:

None required

REMARKS/MITIGATION: There are no impacts to public land since the transfer action only results in a transfer of grazing preference.

I considered this action and determined that it 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.

D. Signature

Authorized Official: Greg Wolfgang

Date: 3-14-14

Name: Greg Wolfgang

Title: Acting Supervisory Natural Resource Specialist

Contact Person

For additional information concerning this CX review, contact Kristy Wallner (Rangeland Management Specialist) 970-876-9023, Colorado River Valley Field Office, 2300 River Frontage Road, Silt, CO 81652.



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
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IN REPLY REFER TO:
ON 0504925 (CON040)

March 13, 2014

CERTIFIED MAIL 7012 2210 0001 5070 0471
RETURN RECEIPT REQUESTED

Nieslanik Beef, LLC
Martin James Nieslanik
0977 County Road 101
Carbondale, CO 81623

NOTICE OF PROPOSED DECISION

Dear Mr. Nieslanik:

Introduction & Background:

On November 21, 2013 you applied to transfer grazing preference from base property controlled by John Nieslanik & Sons #0507611 and base property controlled by Martin James Nieslanik #0503701 to a combined base property controlled by Nieslanik Beef, LLC for grazing use on the Driveway Common #08338, Crown Common #08334, and North Thompson Creek Common #08348 allotments.

Proposed Decision:

As a result of this process, it is my proposed decision to approve the preference transfer from John Nieslanik & Son's #0507611 and Martin James Nieslanik #0503701 to Nieslanik Beef, LLC #0504925 for grazing use on the Driveway Common #08338, Crown Common #08334, and North Thompson Creek #08348 allotments. The preference assignment is described below:

Grazing Preference (AUMS)

Authorization Name & No.	Allotment Name & No.	Active	Suspended	Temporary Suspended	Permitted
Nieslanik Beef, LLC #0504925	Driveway Common #08338	41	0	0	41
	Crown Common #08334	41	0	0	41
	North Thompson Creek #08348	61	0	0	61

We will be unable to complete the National Environmental Policy Act (NEPA) requirements prior to reissuing your new permit. Therefore this permit is issued under the authority of Section 411, Public Law 113-76 and contains the same terms and conditions as the previous permit. This permit may be cancelled, suspended, or modified, in whole or in part to meet the requirements of applicable laws and regulations.

Rationale for the Proposed Decision

Transfer of the grazing preference is in conformance with the Glenwood Springs Resource Management Plan (RMP), approved January, 1984, revised 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; amended in September 2002 - Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance; and amended in October 2012 - Approved Resource Management Plan Amendments/ Record of Decision (ROD) for Solar Energy Development in Six Southwestern States.

The transfer of grazing preference is in conformance with Administrative Actions (pg. 5) and Livestock Grazing Management (pg. 20) of the Glenwood Springs RMP. Administrative actions states, "Various types of actions will require special attention beyond the scope of this plan. Administrative actions are the day-to-day transactions required to serve the public and to provide optimal use of the resources. These actions are in conformance with the plan". The livestock grazing management objective as amended states, "To provide 56,885 animal unit months of livestock forage commensurate with meeting public land health standards."

Authority

43 CFR 4110.2-2(a) states: "Permitted use is granted to holders of grazing preference and shall be specified in all grazing permits or leases. Permitted use shall encompass all authorized use including livestock use, any suspended use, and conservation use, except for permits and leases for designated ephemeral rangelands where livestock use is authorized based upon forage availability, or designated annual rangelands. Permitted livestock use shall be based upon the amount of forage available for livestock grazing as established in the land use plan, activity plan or decision of the authorized officer under § 4110.3-3, except, in the case of designated ephemeral or annual rangelands, a land use plan or activity plan may alternatively prescribe vegetation standards to be met in the use of such rangelands."

43 CFR 4110.2-3(a) states: "Transfer of grazing preference in whole or in part are subject to the following requirements: (1) The transferee shall meet all qualifications and requirements of 4110.1, 4110.2-1 and 4110.2-2.

43 CFR 4130.2(a) states: "Grazing permits or leases authorize use on the public lands and other BLM-administered lands that are designated in land use plans as available for livestock grazing. Permits and leases will specify the grazing preference, including active and suspended use. These grazing permits and leases will also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2."

43 CFR 4160.1(a) states: "Proposed decisions shall be served on any affected applicant, permittee or lessee and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of the proposed decisions shall also be sent to the interested public".

Protest and/or Appeal

Any applicant, permittee, lessee or other interested publics may protest a proposed decision under Sec. 43 CFR 4160.1 and 4160.2, in person or in writing to Greg Wolfgang, Acting Supervisory Natural

Resources Specialist, Bureau of Land Management, 2300 River Frontage Road, Silt, Colorado 81652 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.3 and 4160.4. The appeal must be filed within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 and 4.479, pending final determination on appeal. The appeal and petition for a stay must be filed in the office of the authorized officer, as noted above. The person/party must also serve a copy of the appeal on any person named [43 CFR 4.421(h)] in the decision and the Office of the Solicitor, United States Department of Interior, 755 Parfet Street, Suite 151, Lakewood, Colorado 80215. The BLM does not accept appeals by facsimile or email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and serviced in accordance with 43 CFR 4.473. 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)).

If you have any questions about this proposed decision please contact Kristy Wallner (Rangeland Management Specialist) at (970)876-9023.

Sincerely,



Greg Wolfgang

Acting Supervisory Natural Resources Specialist

3-14-14

Date

Enclosure(s)
Form 4130-2a (Grazing Permit)