

**From:** [Barlan, Bryce](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** RE: 2012 06 08 Draft revised Potash Order JITC\_jp  
**Date:** Thursday, June 21, 2012 11:33:36 PM  
**Attachments:** [2012 06 08 Draft revised Potash Order JITC jp bb edits.docx](#)

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**From:** Pollet, Jolie  
**Sent:** Wednesday, June 20, 2012 3:22 PM  
**To:** Barlan, Bryce  
**Subject:** 2012 06 08 Draft revised Potash Order JITC\_jp

I made a lot of edits and comments on the potash order. I hope it's not too late!

Jolie

DEPARTMENT OF THE INTERIOR  
Office of the Secretary  
Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Order

Section 1. *Purpose and Effect.* (b) (5)

(b) (5)

Section 2. *Authority.* (b) (5)

Section 3. *Order Revised and Superseded.* (b) (5)

(b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area (b) (5)

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Buffer Zone (b) (5)  
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JITC Comments

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Designated Potash Area (b) (5)

Development Area (b) (5)

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Drillino Island (b) (5)

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Indicated Resources (b) (5)

Inferred Resources (b) (5)

Joint Industry Technical Committee (b) (5)

Measured Reserves (also known as "Potash Enclave") (b) (5)

JITC Comments

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Potash – (b) (5)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

*A. Issuance of Oil and Gas Leases*

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*B. Reinstatement or Renewal of Oil and Gas Leases*

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*C. Potash Leases*

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*D. Delineation of Resource Areas and Areas of Operation*

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JITC Comments

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*E. Oil and Gas Drilling*

1. Drilling within the Designated Potash Area.

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JITC Comments

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2. Development Areas

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6. Potash Exploration Licenses and Approvals.

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7. Notice to Potash Lessees.

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*F. Access to Maps and Surveys and Core Data*

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IV. Regulatory and Administrative Matters

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JITC Comments

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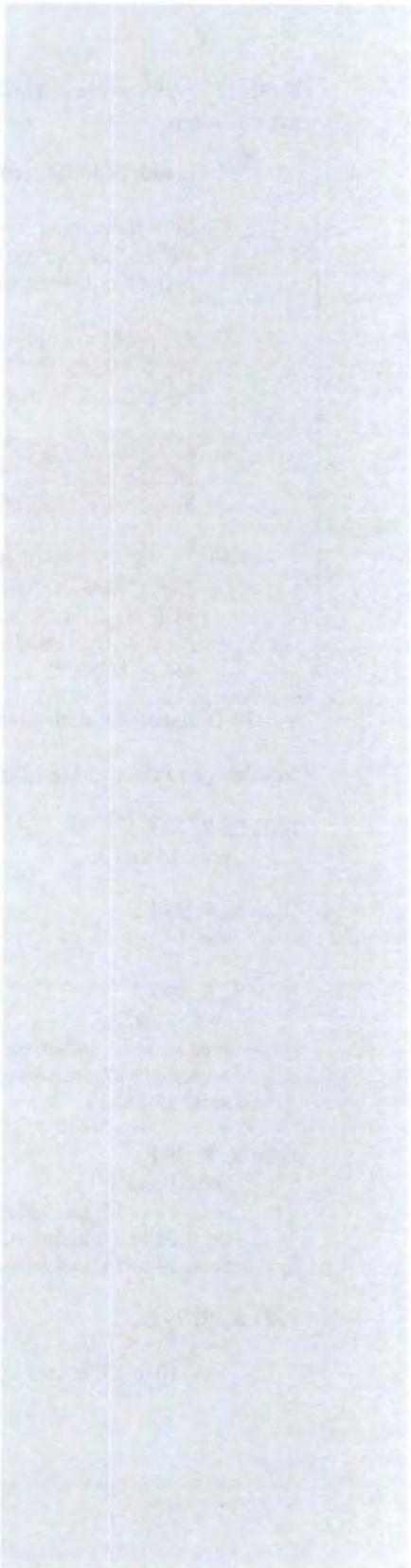
V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

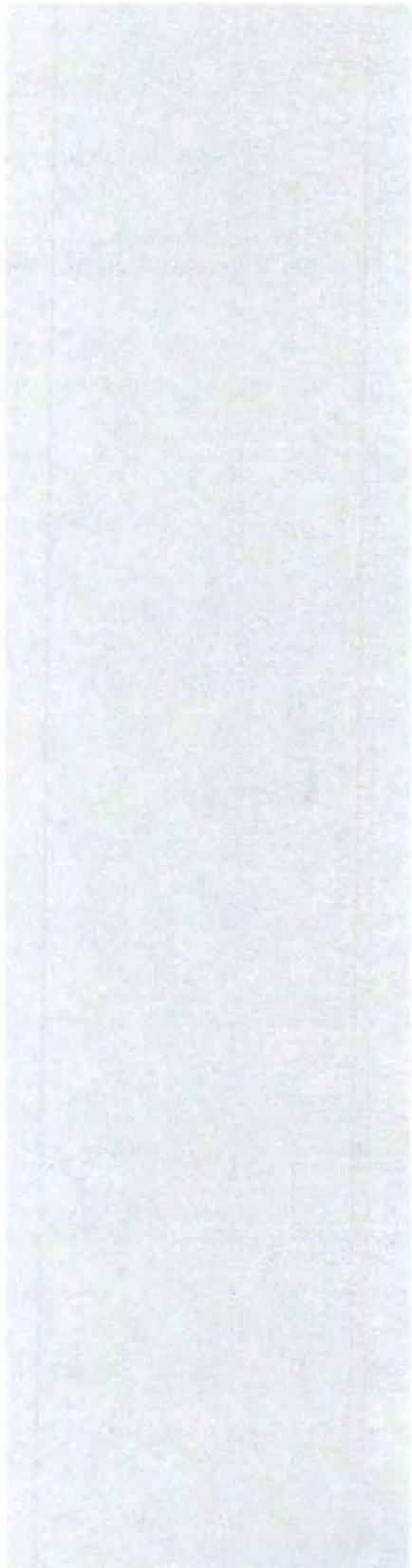
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JITC Comments

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JITC Comments

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Section 4. *Administrative Provisions.* (b) (5)

**From:** [Pollet, Jolie](#)  
**To:** [Allard, Phil](#)  
**Cc:** [Barlan, Bryce](#)  
**Subject:** 2012 06 08 Draft revised Potash Order JITC\_jp\_bb edits final 06 26 12 1400h  
**Date:** Tuesday, June 26, 2012 2:31:45 PM  
**Attachments:** [2012 06 08 Draft revised Potash Order JITC\\_jp\\_bb edits final 06 26 12 1400h.docx](#)

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Phil – Bryce and I are on our way.

DEPARTMENT OF THE INTERIOR  
Office of the Secretary  
Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy  
and Lea Counties, New Mexico

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Section 2. *Authority.* (b) (5)

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I. Definitions.

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Buffer Zone (b)  
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Designated Potash Area – (b) (5)

Development Area – (b) (5)  
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Drilling Island – (b) (5)  
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Indicated Resources – (b) (5)

Inferred Resources – (b) (5)

Joint Industry Technical Committee – (b) (5)

Measured Reserves (also known as “Potash Enclave”) – (b) (5)

JITC Comments

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II. Status of Lands

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III. General Provisions

*A. Issuance of Oil and Gas Leases*

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*B. Reinstatement or Renewal of Oil and Gas Leases*  
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*C. Potash Leases*  
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*D. Delineation of Resource Areas and Areas of Operation*

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*E. Oil and Gas Drilling*

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JITC Comments  
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2. Development Areas.

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JITC Comments

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JITC Comments

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3. Maintenance of Buffer Zones.

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4. Unitization and Communitization.

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5. Coordination with the State of New Mexico.

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6. Potash Exploration Licenses and Approvals.

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6.7. Notice to Potash Lessees.

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*F. Access to Maps and Surveys and Core Data*

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IV. Regulatory and Administrative Matters

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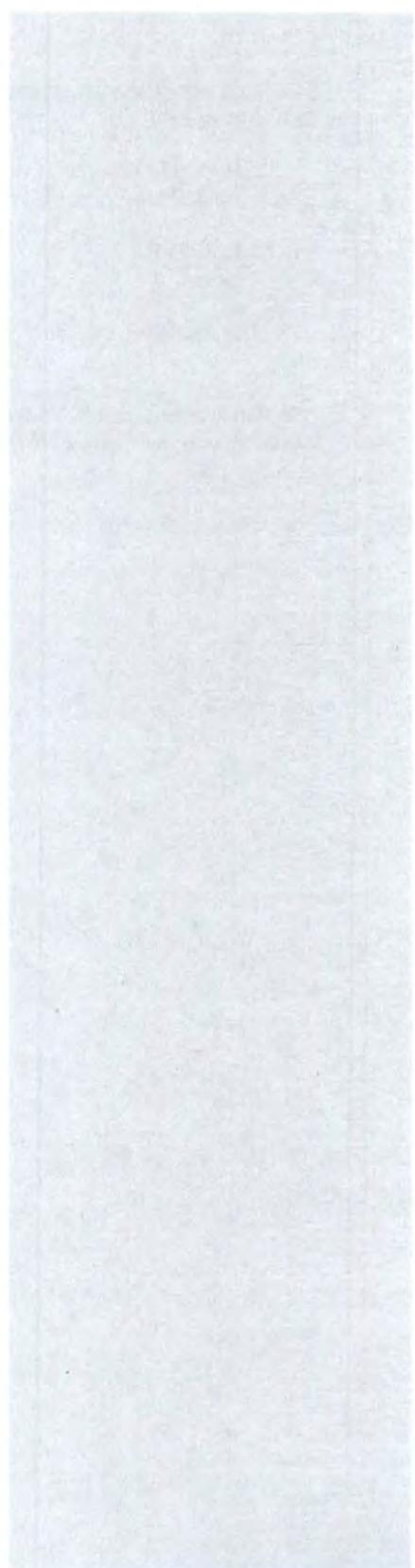
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V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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Section 4. *Administrative Provisions.* (b) (5)

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Cc:** [Cardinale, Richard](#); [Lin, Janet H](#)  
**Subject:** RE: Attaching DMR's comments on draft potash order  
**Date:** Tuesday, November 06, 2012 1:16:00 PM

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Sure. I can take care of it.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

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**From:** Allard, Phil  
**Sent:** Tuesday, November 06, 2012 1:09 PM  
**To:** Barlan, Bryce  
**Cc:** Cardinale, Richard; Lin, Janet H  
**Subject:** FW: Attaching DMR's comments on draft potash order

Bryce,

Could you please print out this version of the Order and place it in the surname package. If you are jammed for time let me know and I will print out one in track changes and one in final and bring them up.

As you can see from the notes below this version has been accepted by the Solicitor's Office through Karen.

Thanks,

Phil

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**From:** Hawbecker, Karen  
**Sent:** Tuesday, November 06, 2012 1:03 PM  
**To:** Allard, Phil  
**Cc:** Blank, Harvey; McNeer, Richard; Johnson, Lynn; Umshler, Sue; Fugate, Barbara; Herrell, Tony J; Stovall, James K; Lin, Janet H  
**Subject:** RE: Attaching DMR's comments on draft potash order

Phil, (b) (5)

Thanks. -Karen

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**From:** Allard, Phil  
**Sent:** Tuesday, November 06, 2012 11:16 AM  
**To:** Fugate, Barbara; Herrell, Tony J; Stovall, James K; Lin, Janet H  
**Cc:** Hawbecker, Karen; Blank, Harvey; McNeer, Richard; Johnson, Lynn; Umshler, Sue  
**Subject:** RE: Attaching DMR's comments on draft potash order

Barbara,

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Karen, (b) (5)

Many thanks,

Phil

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**From:** Fugate, Barbara

**Sent:** Monday, November 05, 2012 7:55 PM

**To:** Allard, Phil; Herrell, Tony J; Stovall, James K

**Cc:** Hawbecker, Karen; Blank, Harvey; McNeer, Richard; Johnson, Lynn; Umshler, Sue

**Subject:** Attaching DMR's comments on draft potash order

Phil, Tony, and Jim –

(b) (5)

. Thank you.

Barbara

ORDER NO.

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior, dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

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Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

a. **Authorized Officer** - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.

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b. **Barren Area** - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

c. **Buffer Zone** - Areas established by the BLM within the Designated Potash Area

(1) extending outward a certain distance from the perimeter of existing underground open mine workings within which oil or gas operations are generally not allowed due to a BLM determination that oil or gas drilling could constitute a hazard to or interfere with orderly potash mining operations, or

(2) extending outward a certain distance from operating oil or gas well(s) or established Drilling Islands within which potash operations are generally not allowed due to a BLM determination that potash mining or exploration operations could constitute a hazard to or interfere with orderly oil or gas operations.

d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. ~~Co-development may require that the development of the resources occur at different times and from different places.~~

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e. Designated Potash Area - The land area described at Section 8 of this Order.

f. Development Area - An area established by the BLM within the Designated Potash Area in consideration of appropriate oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while limiting the impact on potash resources. Each Development Area will typically have only one Drilling Island, subject to narrow exceptions based on specific facts and circumstances. All new oil and gas wells that penetrate the potash formations within a Development Area will be drilled from the Drilling Island(s) associated with that Development Area. The boundaries of each Development Area will be determined in conformity with Section 6.e.(2).

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h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.

i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.

j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.

k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.

l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. §§ 281-287).

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m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

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Sec. 5 **Status of Lands.** This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

Sec. 6 **General Provisions.**

a. Issuance of Oil and Gas Leases. The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

(1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.

(2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.

(3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.

(4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

(b.) Reinstatement or Renewal of Oil and Gas Leases. As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in

Section 6.a.

(c.) Potash Leases.

(1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil and gas lease issued for the same lands.

(2) BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.

(3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

(4) In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas. Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

(1) The areas where active mining operations are currently in progress in one or more ore zones;

(2) The areas where operations have been completed in one or more ore zones;

(3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;

(4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;

(5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;

(6) Those areas that are considered to be Barren Areas;

(7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a three-year mine plan.

(9) The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. (b) (5)

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The Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

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e. Oil and Gas Drilling.

(1) Drilling within the Designated Potash Area. It is the intent of the Department of the Interior to administer oil and gas operations throughout the Designated Potash Area in a manner which promotes safe, orderly co-development of oil and gas and potash resources. It is the policy of the Department of the Interior to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area. Three exceptions to this policy will be permitted if the drilling will occur under the following conditions from:

(a) a Drilling Island associated with a Development Area established under this Order or (b) (5) a prior Order;

(b) a Barren Area and the Authorized Officer determines that such operations will not adversely affect active or planned potash mining operations in the immediate vicinity of the proposed drill-site; or

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(2) Development Areas.

(a) When processing an application for permit to drill (APD) an oil or gas well in the Designated Potash Area that complies with regulatory requirements, the Authorized Officer will determine whether to establish a Development Area in connection with the application, and if so, will determine the boundaries of the Development Area and the location within the Development Area of one or more Drilling Islands from which drilling will be permitted. The BLM may also designate a Development Area outside of the APD process based on information in its possession, and may modify the boundaries of a Development Area. Existing wells may be included within the boundaries of a Development Area. A Development Area may include Federal oil and gas leases and other Federal and non-Federal lands.

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(b) After designating or modifying a Development Area, the BLM will

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issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will:

(i) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and

(ii) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

(c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.

(d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

(i) The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;

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(ii) The application of available oil and gas drilling and production technology in the Permian Basin;

(iii) The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;

(iv) Any long term exploration and/or mining plans provided by the potash industry;

(v) Whether a Barren Area may be the most appropriate area for a Drilling Island;

(vi) The requirements of this Order; and

(vii) Any other relevant factors.

(e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the available oil and gas drilling and production technology in the

Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three-year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

(f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.

(g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones. Buffer Zones of  $\frac{1}{4}$  mile for oil wells and  $\frac{1}{2}$  mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(4) Unitization and Communitization. To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

(a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.

(b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. ~~In that regard, the Federal potash lessees may protest to the~~

~~NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.~~

(b) (5)

(c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

(a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.

(b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.

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(8) Access to Maps and Surveys.

(a) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(b) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

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(d) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. Maps of Development Areas will be provided in a timely fashion by the BLM upon request.

#### Sec. 7 Regulatory and Administrative Matters.

(a) This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.

(b) Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.

(c) In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including rulemaking, notices to lessees, and orders of the Authorized Officer.

(d) The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased

technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.

(e.) The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.

(f.) The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

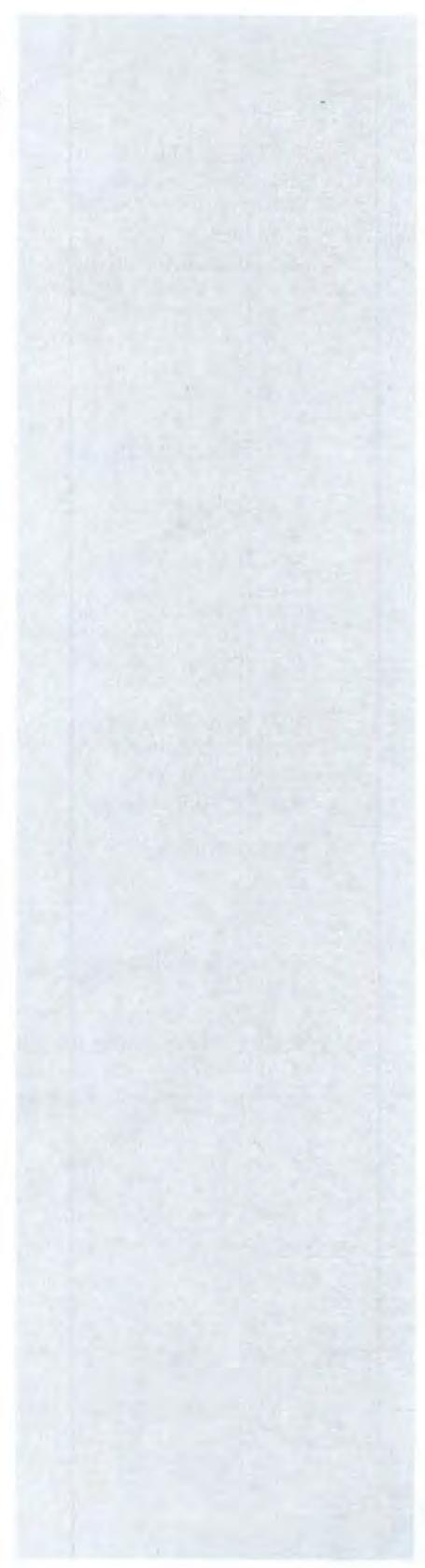
T. 25 S., R. 31 E.,  
secs. 1 and 2.

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secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

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T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The Director, BLM, -is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Secretary of the Interior

Date:

**From:** [Barlan, Bryce](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** FW: Attaching draft potash order with new revisions  
**Date:** Monday, May 21, 2012 10:32:32 PM  
**Attachments:** [2012-05.21 Draft revised Potash Order -- new edits after Secretarial review.docx](#)  
[2012-05.21 Draft revised Potash Order w. redline bb edits.docx](#)

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**From:** Farquhar, Ned  
**Sent:** Monday, May 21, 2012 6:58 PM  
**To:** Burke, Marcilynn; Barlan, Bryce  
**Subject:** Fw: Attaching draft potash order with new revisions

----- Original Message -----

**From:** Fugate, Barbara  
**Sent:** Monday, May 21, 2012 08:57 PM  
**To:** Lin, Janet H; Herrell, Tony J; Pool, Michael J; Spisak, Timothy; Leverette, Mitchell; Juen, Jesse J; Nedd, Michael D; Allard, Phil; Martin, Benjamin F; Vogt, Vincent N; Stovall, James K; Cranston, Craig C; Spielman, Jay R; Farquhar, Ned  
**Cc:** Haugrud, Jack; Daugherty, Dennis; McNeer, Richard; Johnson, Lynn; Blank, Harvey; Umshler, Sue; Murphy, Timothy; Spector, Rachel; Hawbecker, Karen  
**Subject:** Attaching draft potash order with new revisions

(b) (5)

Barbara . Thank you.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Order

Section 1. *Purpose and Effect.* (b) (5)

Section 2. *Authority.* (b) (5)

Section 3. *Order Revised and Superseded.* (b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area – (b) (5)

Buffer Zone – (b) (5)

Designated Potash Area – (b) (5)

Development Area – (b) (5)

(b) (5)

Drilling Island – (b) (5)

Indicated Resources – (b) (5)

Inferred Resources – (b) (5)

Joint Industry Technical Committee – (b) (5)

Measured Reserves (also known as “Potash Enclave”) – (b) (5)

Potash – (b) (5) d associated minerals as specified in the Act of February 27, 1927  
(30 U.S.C. 281-287).

Safety Buffer – (b) (5)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

*A. Issuance of Oil and Gas Leases*

(b) (5)

(b) (5)

*B. Reinstatement or Renewal of Oil and Gas Leases*

(b) (5)

*C. Potash Leases*

(b) (5)

*D. Delineation of Resource Areas*

(b) (5)

(b) (5)

*E. Oil and Gas Drilling*

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

(b) (5)

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3. Maintenance of ~~Safety Buffers~~ Zones.

(b) (5)

(b) (5)

4. Unitization and Communitization.

(b) (5)

5. Coordination with the State of New Mexico.

(b) (5)

6. Exploration Licenses.

(b) (5)

7. Notice to Potash Lessees.

(b) (5)

*F. Access to Maps and Surveys*

(b) (5)

IV. Regulatory and Administrative Matters

(b) (5)

(b) (5)

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

(b) (5)

Section 4. *Administrative Provisions.* (b) (5)



DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Order

Section 1. Purpose and Effect. (b) (5)

Section 2. Authority. (b) (5)

Section 3. Order Revised and Superseded. (b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area – (b) (5)  
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Buffer Zone – (b) (5)

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Designated Potash A(b) (5)

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Development Area– (b) (5)

Drilling Island – (b) (5)  
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Indicated Resources – (b) (5)  
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Inferred Resources–  
(b) (5)

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Joint Industry Technical Committee – (b) (5)  
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Measured Reserves (also known as "Potash Enclave")  
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Potash (b) (5)  
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Safety Buffer (b) (5)  
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(b) (5)

Unknown Area – (b) (5)  
(b) (5)

II. H. Status of Lands  
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III. General Provisions

A. A. Issuance of Oil and Gas Leases  
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B. ~~B.~~ Reinstatement or Renewal of Oil and Gas Leases

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C. ~~C.~~ Potash Leases

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D. ~~D.~~ Delineation of Resource Areas

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*E. Oil and Gas Drilling*

1. ~~1.~~ Drilling within the Designated Potash Area.

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2. ~~2.~~ Development Areas.

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3. 3. Maintenance of ~~Safety Buffers~~ Buffer Zones.

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6. Exploration Licenses.

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7. ~~7.~~ Notice to Potash Lessees.

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*F. Access to Maps and Surveys*

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IV. Regulatory and Administrative Matters

(b) (5)

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(b) (5)

C.

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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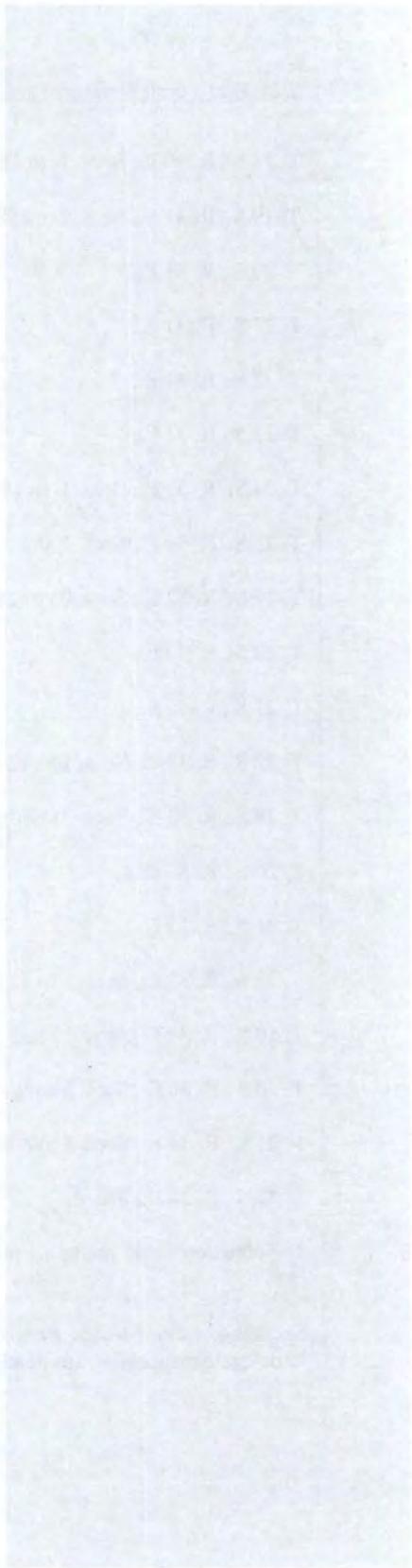
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Section 4. *Administrative Provisions.* (b) (5)



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<b>Page 5: [9] Comment [EB2]</b>	<b>Elaine Barlan</b>	<b>5/21/2012 10:20:00 PM</b>
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<b>Page 9: [13] Formatted</b>	<b>Barbara</b>	<b>5/21/2012 9:33:00 PM</b>

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**From:** [Hawbecker, Karen](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** FW: Attaching Potash Order EA with DMR edits  
**Date:** Monday, October 15, 2012 4:30:25 PM  
**Attachments:** [2012.10.12 BFugate-HBlank-KHawbecker redline of EA -Sec Potash Order v.2.docx](#)

---

FYI

---

**From:** Hawbecker, Karen  
**Sent:** Friday, October 12, 2012 6:39 PM  
**To:** Lin, Janet H  
**Cc:** Allard, Phil; Juen, Jesse J; Herrell, Tony J; Stovall, James K; Blank, Harvey; Fugate, Barbara  
**Subject:** Attaching Potash Order EA with DMR edits

Janet,

(b) (5)

Thank you.

--Karen

**ENVIRONMENTAL ASSESSMENT**  
**U.S. DEPARTMENT OF THE INTERIOR**  
**BUREAU OF LAND MANAGEMENT**

(b) (5)

**PROPOSED REVISION**  
**OF THE 1986 SECRETARIAL POTASH ORDER**

**DOI-BLM-NM-P020-2012-0968-EA**

**PREPARED BY:**

**Department of the Interior**  
**Bureau of Land Management**  
**Carlsbad Field Office**  
**620 East Greene Street**  
**Carlsbad, NM 88220**  
**June 2012**

**I.** (b) (5)

***Introduction***

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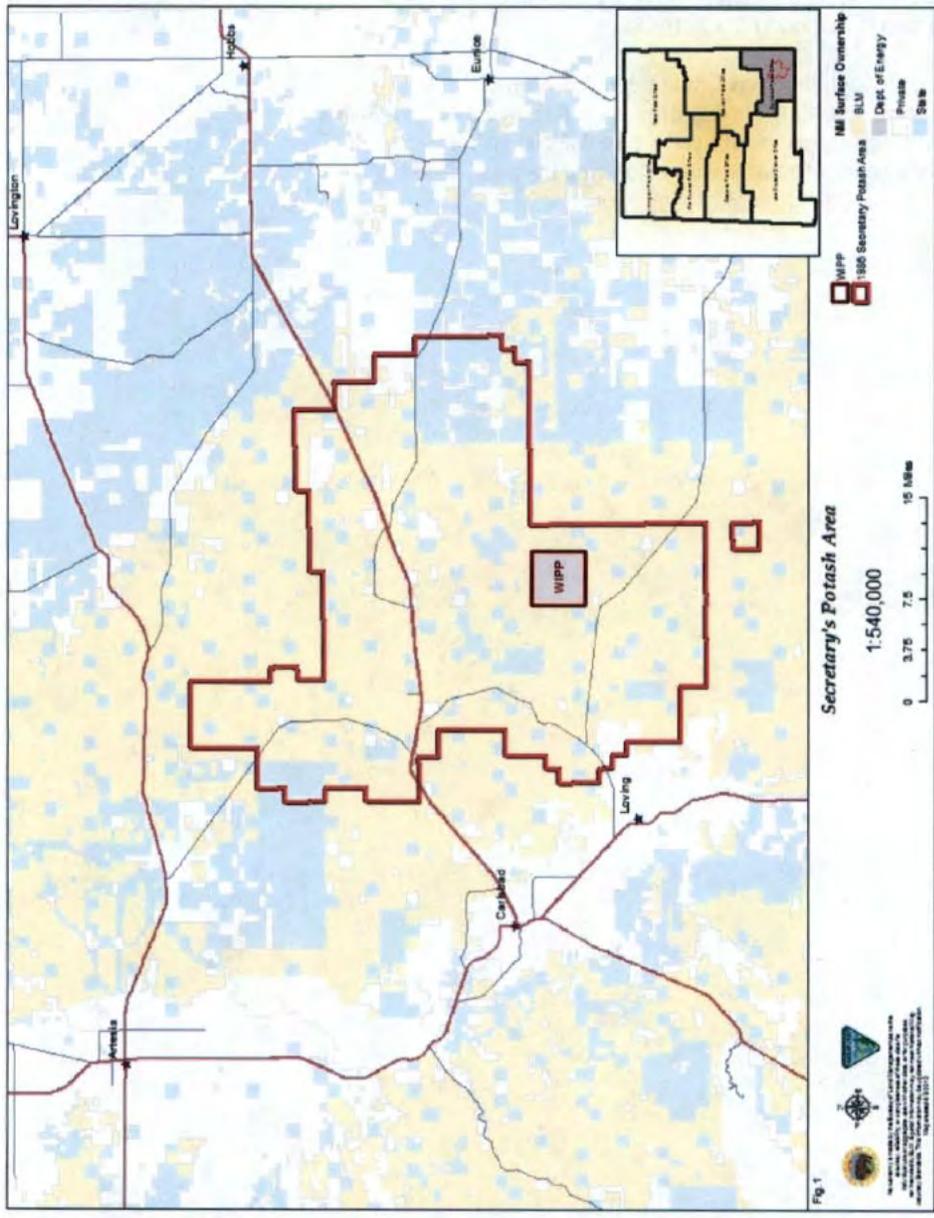
*a) Background and Overview*

The (b) (5) (DPA) covers a total area of 497,630 acres and includes 350,617 acres of BLM managed surface where co-development of oil and gas and potash occurs. The conflict between the oil and gas and potash industries over development of the mineral resources in the DPA is a result of the area's unique geology supporting all three resources. To achieve concurrent development as first called for in the 1951 Secretarial Order and continuing ~~forth~~ through to the most recent 1986 Secretarial Order, the correlative rights of each industry were secured by placing protective stipulations in new leases issued for both oil and gas, and potash. While there has been a long history of litigation of actions within the DPA, concurrent-development has occurred in the past as is evidenced by the fact that a total of 4,959 wells (approximately 2,295 active oil wells, 577 active gas wells, 33 water injection wells and the balance in dry holes and abandoned oil and gas wells) are currently located within the DPA. Historically, there have been seven major potash mining operations in the DPA with thousands of miles of underground mine workings. In addition, to date, approximately 2,500 potash core holes have been drilled within the area.

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Doc. 86-24314, respectively).— The 1986 Order had numerous typographical errors which resulted in a set of corrections being issued in 1987 (FR 87- 19554).

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***b) Conformance with Applicable Land Use Plan and Other Environmental Assessments***

The applicable land use plan for this action is the 1988 Carlsbad Resource Management Plan (RMP) and Final Environmental Impact Statement (BLM February 1986) and the Carlsbad RMP Amendment (RMPA) and Final Environmental Impact Statement for Oil and Gas Resources (BLM January 1997), which were approved as the Final RMP and RMPA for the BLM-Carlsbad Field Office (CFO) by the Record of Decisions (ROD), signed September 30, 1988 and October 10, 1997, respectively. The Special Status Species RMPA ROD was signed on May 2, 2008, and

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**II. Purpose and Need and Decision to be Made**

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**III. issues**

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The revision of the 1986 Secretarial Potash Order was internally scoped and evaluated by the BLM ~~Carlsbad Field Office~~ (CFO) Interdisciplinary Team in June of 2012. A number of potential issues were raised through discussion of the proposed revision and are listed as follows:

How many Development Areas will be created within the ~~Secretary's Potash Area~~ DPA and where will the ~~Drilling~~ Islands associated with these ~~Development~~ Areas be located?

How will these Development Areas be located with regard to Special Management Areas, Areas of Critical Environmental Concern, Lesser Prairie-Chicken Habitat Areas and other special designations within the ~~Secretary's Potash Area~~ (DPA)?

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What are the potential impacts to grazing carrying capacity and allotment cattle numbers if Drilling Islands are placed in certain range allotments?

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How can Drilling Islands within Development Areas be designed and implemented in light of the lesser prairie-chicken seasonal timing restrictions on drilling and operations?

What are the potential impacts ~~to~~ recreation from more focused drilling activity and an increase in traffic, noise and infrastructure in proximity to the Hackberry Lake Recreation Area?

What are the effects of increased truck traffic ~~incident to more extensive mineral development~~ ~~to~~ ~~on~~ air quality, vegetation, wildlife habitat, and livestock grazing? How can the impacts be mitigated? Are there opportunities or a need for centralized produced water injection wells and frac ponds, which are pits that hold water to be used during oil field operations?

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#### **IV. *Proposed Action and Alternative***

In this administrative level environmental analysis, the BLM is considering two alternatives: A) continuation of the existing ~~Secretary's~~ Secretarial Potash Order dated October 28, 1986 (the No Action Alternative), and B) acceptance of the proposed revision of the 1986 ~~Secretary's~~ Secretarial Potash Order.

*Alternative A – Maintain the 1986 Secretarial Potash Order (No Action Alternative) - Under*  
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The following list identifies, in detail, the new provisions (b) (5) and modifications contained within the proposed revision of the 1986 Secretarial Potash Order:

Implementation of Development Areas and associated Drilling Islands.

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| Maintenance of appropriate Buffer Zones for Potash Mine Workings.

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| Unitization and communitization requirements.

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| Coordination with the State of New Mexico.

If the effective operation of any Development Area (b) (5) required that the (b) (5) NMOCD revise the state's mandatory well spacing requirements, the BLM would (b) (5) participate as needed in such a process. The BLM (b) (5) could adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.

The BLM (b) (5) would cooperate with the NMOCD in the implementation of that agency's rules and regulations. (b) (5)

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In taking any action under Section (b) (5) i.e. of the Order ("Oil and Gas Drilling"), the Authorized Officer would (b) (5) take into consideration the applicable rules and regulations of the NMOCD.

Exploration licenses for core hole drilling to establish the location for mineable potash reserves.

(b) (5)

Notification of potash lessees during the APD process.

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## V. *Affected Environment*

The lands within the DPA include a combination of BLM, State, and privately owned surface and mineral estate. Public lands under the management of the BLM within this area reflect the diverse landscape of the Chihuahuan desert. While a majority of the area is characterized by

mesquite dunes and shinnery oak vegetative cover known locally as the Mescalero Sands, there are also significant drainages (i.e. Nash Draw); extensive salt lakes and playas (i.e. Laguna Grande); exposed rock outcrops (i.e. the Maroon Cliffs); and numerous ridges, basins and other distinctive topographic features. A total of 34 grazing allotments are located within or partially within the DPA. These allotments are managed and monitored for multiple use and sustained vegetation yield as well as beef production. The DPA includes portions of the habitat for two special status species, the dunes sagebrush lizard (*Sceloporus arenicolus*) and the lesser prairie-chicken (*Tympanuchus pallidicinctus*). Public lands within the DPA contain the shinnery oak-dune environment that provides booming grounds (leks) and nesting habitat for the lesser prairie-chicken as well as the niche dune environment required by the dunes sagebrush lizard. Additionally, there are two archaeological districts currently managed as Special Management Areas (SMA) within the DPA. The Maroon Cliffs SMA contains a rich distribution of formative era archaeological sites, including significant habitation areas located along the ridges, ancient playas, and tributaries of Nash Draw. The Laguna Plata Archaeological District is a unique prehistoric habitation area with significant archaeological deposits located on the margins of a large salt lake.

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<b>Identified Area</b>	<b>Relevant &amp; Important Criteria / Resource</b>
Maroon Cliffs Potential ACEC (managed as a SMA under the current RMP)	Cultural Resource Values
Laguna Plata Archaeological District and Potential ACEC (managed as a SMA under the current RMP)	Cultural Resource and Wildlife Values
Desert Heronries Potential ACEC	Wildlife Values
Salt Playas Potential ACEC	Cultural Resource and Wildlife Values
Cave Resources Potential ACEC	Wildlife, Natural System/Processes Values and Natural Hazards
Hackberry Lake OHV Recreation Area (managed as a SMA under the current RMP)	Recreation Issues
Lesser Prairie-Chicken Habitat Areas	Special Status Species Habitat and Wildlife Values
The Gnome Site	Withdrawn from Mineral Leasing by Department of Energy
The Waste Isolation Pilot Project (WIPP Site)	Withdrawn from Mineral Leasing by Department of Energy

Remaining BLM lands within the DPA are managed for a variety of resource values and uses such as, but not limited to, recreation, potash mining, livestock grazing, rights-of-way, and oil and gas development.

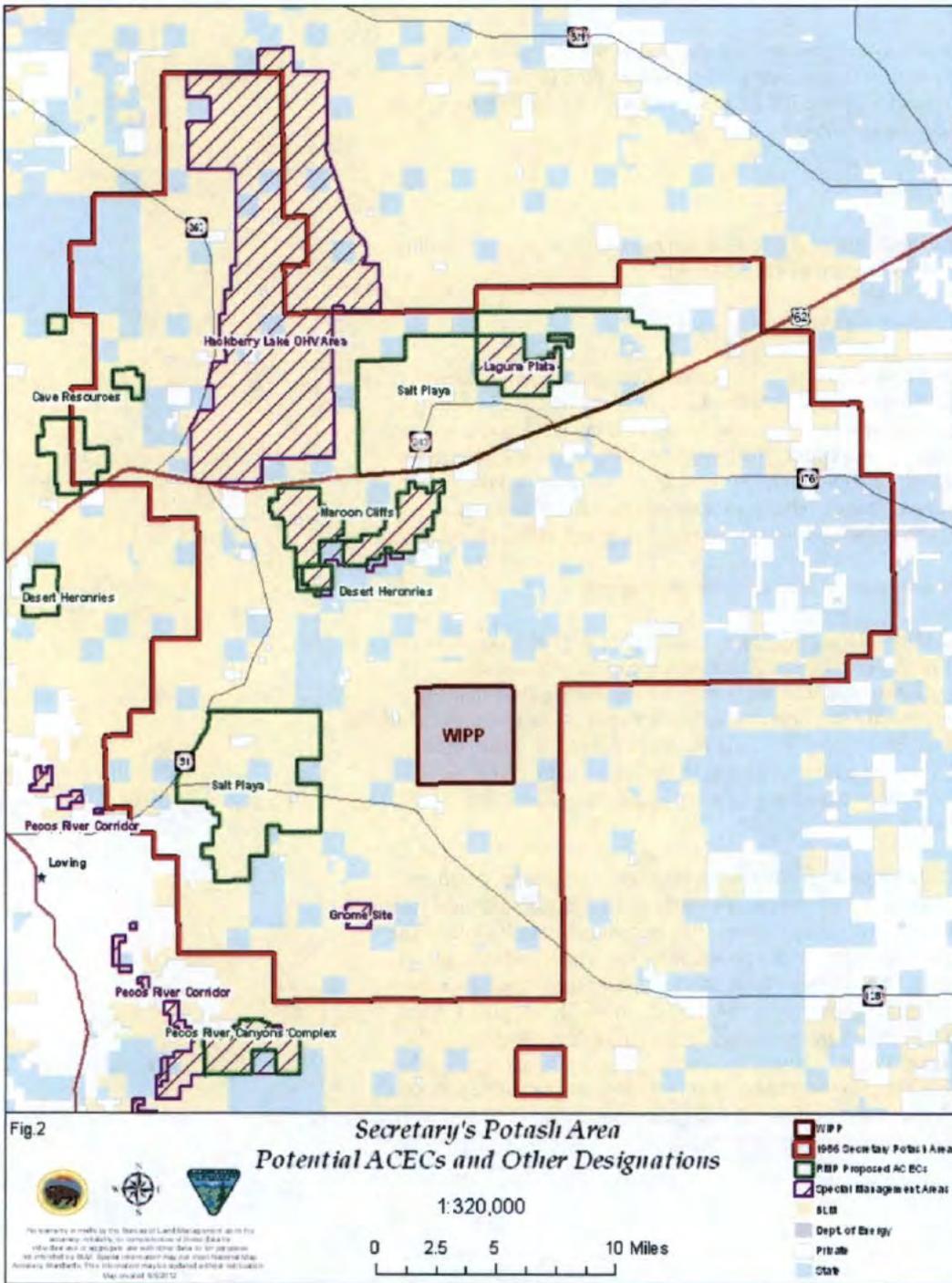
More in-depth descriptions of the affected environment and analysis of the effects oil and gas and potash operations ~~may~~ have on the human environment can be found in the 1988 Carlsbad Resource Area RMP, as amended by the 1997 Carlsbad Resource Area RMPA and the 2008 Pecos District Special Status Species RMPA.

## **VI. Environmental Effects**

The following analysis evaluates the environmental effects to the human environment that may occur as a result of revisions to the 1986 Secretarial Potash Order.

### ***Assumptions Made as Part of the Impact Analysis***

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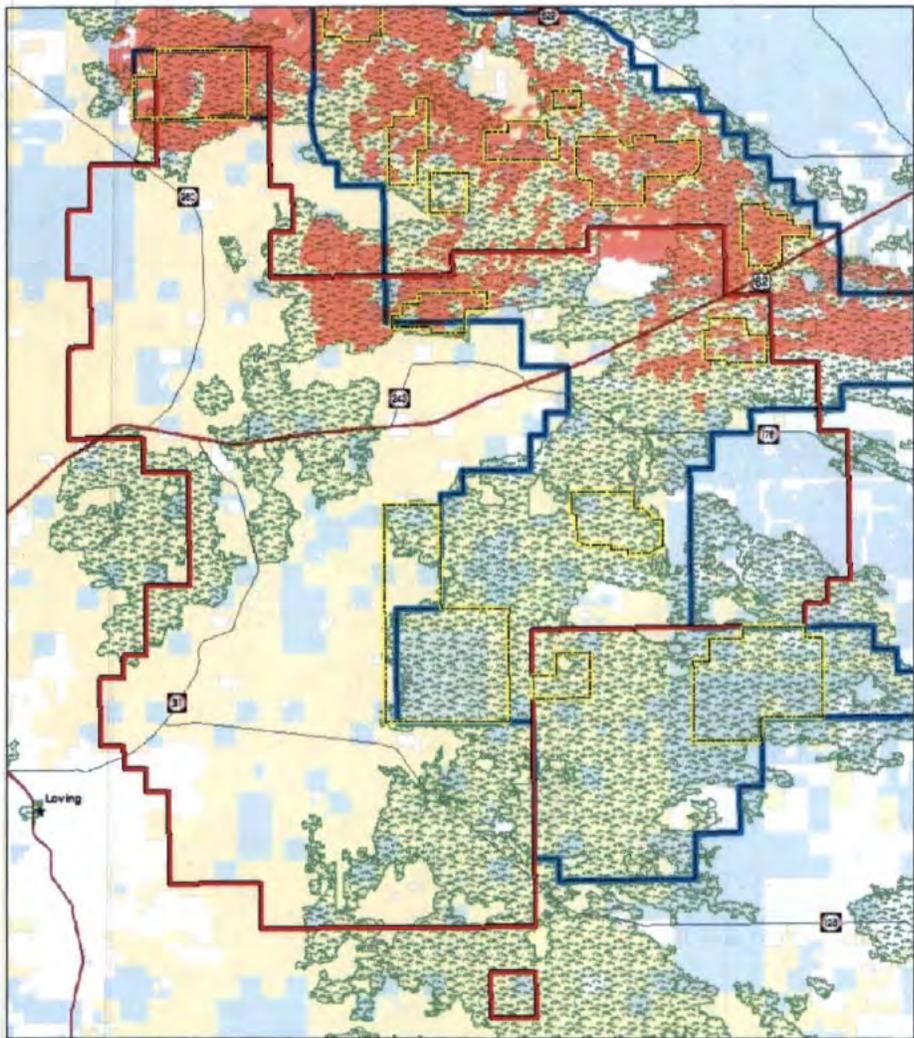


Fig. 3





**Secretary's Potash Area  
Wildlife Habitat Areas**

1:320,000

0 2.5 5 10 Miles



- 100 Secretary Potash Area
- Habitat Area
- 100 Year Recession 221-B
- 100 Year Recession 221-B (L-PC Model)
- Sand Dune/Lake Habitat
- Surface Watersheds
- Riparian
- Prarie
- Sand

All contents provided by the Bureau of Land Management are in the public domain, or copyright of those who have provided the data or information used in this product. All other contents are the property of the Bureau of Land Management. This information may be updated without notification. (Map created 03/2015)

***Direct and Indirect Impacts***

(b) (5)

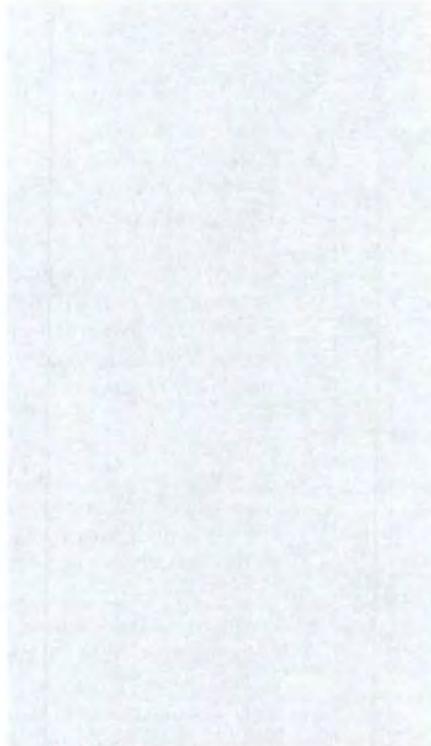
a) ***Direct and Indirect Effects of Alternative A – Maintain the 1986 Secretary's Secretarial Potash Order (No Action)***

(b) (5)

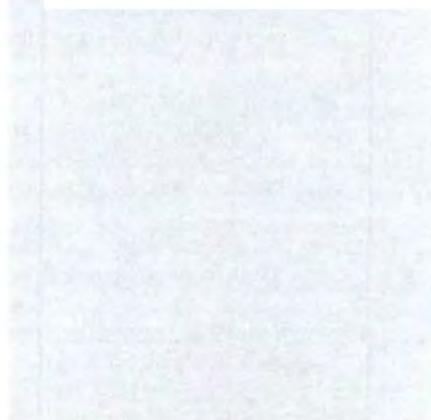
b) ***Direct and Indirect Effects of the Proposed Action***

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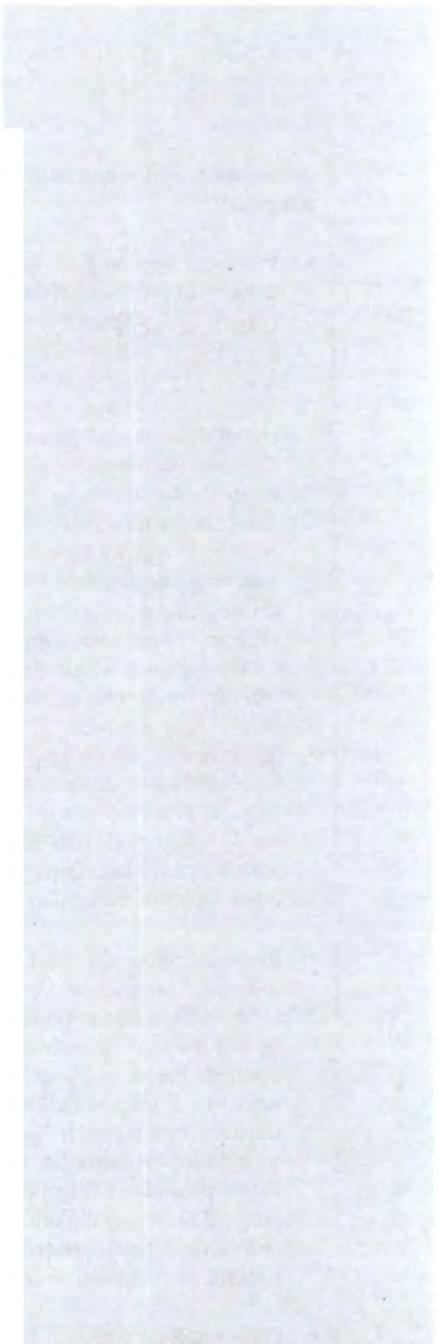
(b) (5)



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| c) **Cumulative** (b) (5) **impact**



| The CEQ regulations define cumulative (b) (5) mpact as “---the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” (40 CFR 1508.7).

A variety of activities that affect the human environment already occur on public lands within the DPA. In addition to oil and gas development and potash mining other activities include recreation, livestock grazing, saleable mineral (caliche, gravel, sand, etc.) extraction, hunting, rights-of-way, and waste disposal and site protection conducted through the Department of Energy. Consideration of the cumulative impacts within the DPA must consider (b) (5) impacts in combination with these other ongoing activities.  
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**VII. Tribes, Individuals, Organizations, or Agencies Consulted**

***a) Tribes Engaged***

Under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 Departmental Manual 2, the BLM evaluated possible effects of the proposed revision of the 1986 Secretarial Potash Order on federally recognized Indian tribes. The BLM CFO consults with seven federally recognized tribes with tribal interests within the DPA. Consultation was conducted throughout June, July and August of 2012. Initial contact with tribes was made in the form of a formal letter informing

them of the proposed revision and soliciting their concerns and input. This letter included a map showing the location of the ~~Secretary's Potash Area~~ DPA.

<b><i>Tribe/Pueblo: Point Of Contact</i></b>	<b><i>Date of BLM Letter</i></b>	<b><i>Response Received</i></b>	<b><i>Concerns/Issues</i></b>
Mescalero Apache Tribe: President Mark Chino	June 8, 2012	No written response received	N/A
Ysleta del Sur Pueblo: Frank Paiz	June 8, 2012	No written response received	N/A
Pueblo of Isleta: Governor Frank Lujan	June 8, 2012	June 14, 2012	No specific concerns
Apache Tribe of Oklahoma: Chairman Donnie Cabaniss	June 8, 2012	No written response received	N/A
Comanche Nation Chairman Johnny Wauqua	June 8, 2012	No written response received	N/A
Kiowa Tribe of Oklahoma: Chairman Ron Twohatchet	June 8, 2012	No written response received	N/A
Hopi Tribe: Chairman Leroy Ned Shingoitewa	June 8, 2012	No written response received	N/A

A second letter (email and hard copy) that included a copy of the draft revision to the 1986 Secretarial Potash Order was sent to the tribes on July 9, 2012.

A series of face-to-face meetings were held during the months of July and August 2012 with the various tribes. These meetings were arranged in order to discuss the proposed revision of the 1986 Secretarial Potash Order as well as the Carlsbad RMP Revision and other projects and initiatives within the BLM CFO. These meetings took place at the various tribal/pueblo locations and were designed to provide an opportunity for the BLM to collect information from the tribes regarding their concerns or issues associated with these projects. The following meetings were held:

<b><i>Tribe/Pueblo:</i></b>	<b><i>Date and Location of Meeting</i></b>	<b><i>BLM Attendees</i></b>	<b><i>Tribal Attendees</i></b>
Mescalero Apache Tribe	July 20, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Holly Houghton, Mescalero THPO; Arden Comanche, Cultural Advisor

Ysleta del Sur Pueblo	July 24, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Javier Loera, War Captain/THPO
Pueblo of Isleta:	July 25, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Governer Frank Lujan; 11 members of the Isleta Cultural Committee;
Apache Tribe of Oklahoma	July 16, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Chairman Donnie Donald Cabaniss, Jr; and 3 members of the Tribal Council
Comanche Indian Tribe	July 18 , 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Jimmy Arterberry, THPO/NAGPRA Director
Kiowa Tribe of Oklahoma	July 17, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Chairman Ron Twohatchet
Hopi Tribe	August 2, 2012	Jim Stovall, BLM CFO Manager, George MacDonell, BLM CFO Assoc. Manager, James Smith, BLM CFO Lead Archaeologist	Leigh J. Kuwanwisiwma, Director Cultural Preservation Office; Terry Morgart, THPO

All of the tribes expressed the concern that any activities to be conducted under the Order comply with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013. The tribes further urged that they be provided with

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**b) USFWS Consultation**

The BLM consulted informally with the U.S. Fish and Wildlife Service (USFWS) under ~~s~~Section 7 of the Endangered Species Act of 1973, as amended. The BLM prepared a letter detailing the administrative nature of the proposed revision of the ~~Secretary's~~ Secretarial Potash Order. After review, the USFWS supported the BLM's determination of "no effect" for the two candidate species. (b) (5)

**c) Individuals Consulted**

This section includes individuals or organizations from the public, external agencies, and the interdisciplinary team that were contacted during the development of this document.

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<b>ID Team Member/ Contact Name</b>	<b>Title</b>	<b>Organization</b>
Phil Allard	Special Assistant – Office of the Director	BLM-WO
Paul McNutt	Economist – Division of Solid Minerals	BLM-WO
Ian Senio	Division Chief – Division of Regulatory Affairs	BLM-WO
John Smitherman	Co-Chairman, Joint Industry Technical Committee	BOPCO, L.P.
John Mansanti	Co-Chairman, Joint Industry Technical Committee	Intrepid Potash, Inc.
Kevin Ryan	Joint Industry Technical Committee	Intrepid Potash, Inc.
Suzanne P. Holland	Joint Industry Technical Committee	Chevron, U.S.A.
Judy L. Moses	Joint Industry Technical Committee	Chevron, U.S.A.
Chad Johnson	Joint Industry Technical Committee	Cimarex Energy Company

Stephen P. Bell	Joint Industry Technical Committee	Cimarex Energy Company
J. Robert Ready	Joint Industry Technical Committee	COG Operating LLC
David Harms	Joint Industry Technical Committee	ConocoPhillips
William H. Boyer	Joint Industry Technical Committee	Mosaic Potash
Daniel J. Morehouse	Joint Industry Technical Committee	Mosaic Potash
John A. Merson, Ph.D.	Joint Industry Technical Committee	Sandia National Laboratories
Michael Wichterich	Joint Industry Technical Committee	Three Rivers Operating Company LLC
Tim Kane	Joint Industry Technical Committee	Three Rivers Operating Company LLC
James S. Brown	Joint Industry Technical Committee	Yates Petroleum Corporation
Steve Daly	Soil Conservationist	BLM-CFO
Legion Brumley	Environmental Protection Specialist	BLM-CFO
Todd Suter	Realty Specialist	BLM-CFO
Owen Lofton	Carlsbad RMP Program Lead	BLM-CFO
Tanner Nygren	Natural Resource Specialist	BLM-CFO
Mark Lewis	Geologist	BLM-CFO
John Fast	Natural Resource Specialist	BLM-CFO
Jim Renn	Archaeologist	BLM-CFO
Robert Gomez	Realty Specialist	BLM-CFO
Jeanette Martinez	Assistant Field Manager - Resources	BLM-CFO
Wesley Ingram	Supervisory Petroleum Engineer	BLM-CFO

Aaron Stockton	Natural Resource Specialist/Cave/Karst	BLM-CFO
Deanna Younger	Recreation Specialist	BLM-CFO
James B. Smith	Lead Archaeologist	BLM-CFO
Cody Layton	Natural Resources Specialist	BLM-CFO
John A. Chopp	Wildlife Biologist	BLM-CFO
Calvin Deal	Rangeland Management Specialist	BLM-CFO
Bob Ballard	Wildlife Biologist	BLM-CFO
Craig Cranston	Mining Engineer, Solid Minerals	BLM-CFO
Ty Allen	Fish and Wildlife Service	USFWS-CFO
George MacDonell	Associate Field Manager	BLM-CFO
Jim Stovall	Field Manager	BLM-CFO
Tony Herrell	Deputy State Director - Minerals	BLM NMSO
Marikay Ramsey	T & E Lead	BLM NMSO
Signa Larralde	Cultural Resources Lead	BLM NMSO
Rebecca Hunt	Natural Resource Specialist	BLM NMSO
Jay Spielman	Geologist	BLM NMSO
Frank Lujan	Governor	Pueblo of Isleta
Mark Chino	President	Mescalero Apache Tribe
Holly Houghton	THPO	Mescalero Apache Tribe
Arden Comanche	Cultural Advisor	Mescalero Apache Tribe
Donnie Cabaniss	Tribal Administrator	Apache Tribe of Oklahoma
Johnny Wauqua	Chairman	Comanche Nation

Jimmy Arterberry	THPO/NAGPRA Director	Comanche Nation
Ron Twohatchet	Chairman	Kiowa Tribe of Oklahoma
Leroy Ned Shingoitewa	Chairman	Hopi Tribal Council
Terry Morgart	THPO	Hopi Tribe
Leigh J. Kuwanwisiwma	Director Cultural Preservation Office	Hopi Tribe
Frank Paiz	Governor	Ysleta del Sur Pueblo
Javier Loera	War Captain/THPO	Ysleta del Sur Pueblo

**VIII. List of Preparers**

This assessment was prepared by George MacDonell, Carlsbad Field Office, Associate Field Office Manager; Craig Cranston, Carlsbad Field Office, Lead Mining Engineer; James Smith Carlsbad Field Office, Lead Archaeologist; and Rebecca Hunt, New Mexico State Office, Natural Resources Specialist.

**From:** [Barlan, Bryce](#)  
**To:** [Lin, Janet H](#); [Hawbecker, Karen](#)  
**Subject:** Re: BLM recommendations on revision of the Potash/O&G Conflict Sec Order  
**Date:** Wednesday, April 18, 2012 6:16:20 AM

---

Thanks Janet. I appreciate it.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

**From:** Lin, Janet H  
**Sent:** Wednesday, April 18, 2012 03:51 AM  
**To:** Hawbecker, Karen; Barlan, Bryce  
**Subject:** Re: BLM recommendations on revision of the Potash/O&G Conflict Sec Order

Bryce and Karen - I plan to come talk to Ned in follow up to the request at your meeting.

----- Original Message -----

**From:** Hawbecker, Karen  
**Sent:** Tuesday, April 17, 2012 04:13 PM  
**To:** Barlan, Bryce; Lin, Janet H  
**Subject:** RE: BLM recommendations on revision of the Potash/O&G Conflict Sec Order

Bryce and Janet, Are there BLM recommendations to the Secretary? If so, could you share a copy with the Solicitor's Office? We're being asked for legal advice about this and not sure what BLM's views are. Thank you. --Karen

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Tuesday, April 17, 2012 6:09 PM  
**To:** Lin, Janet H  
**Cc:** Hawbecker, Karen  
**Subject:** BLM recommendations on revision of the Potash/O&G Conflict Sec Order

Greetings Janet,

Members of the potash industry are expected to meet with Ned next week (if not the end of this week).

Do you all know what the status is of BLM's recommendations to the Secretary to revise the Sec Order? Have them been delivered to him yet?

He'd like to know what the status is, if the information is available.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Hawbecker, Karen](#); [Lin, Janet H](#)  
**Subject:** Re: BLM recommendations on revision of the Potash/O&G Conflict Sec Order  
**Date:** Tuesday, April 17, 2012 6:24:57 PM

---

(b) (5)

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

**From:** Hawbecker, Karen  
**Sent:** Tuesday, April 17, 2012 04:13 PM  
**To:** Barlan, Bryce; Lin, Janet H  
**Subject:** RE: BLM recommendations on revision of the Potash/O&G Conflict Sec Order

Bryce and Janet, (b) (5)

--Karen

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Tuesday, April 17, 2012 6:09 PM  
**To:** Lin, Janet H  
**Cc:** Hawbecker, Karen  
**Subject:** BLM recommendations on revision of the Potash/O&G Conflict Sec Order

Greetings Janet,

(b) (5)

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** Re: BLM's Response to SOL's Comments on the Comment Analysis for the Potash Order  
**Date:** Friday, November 02, 2012 12:59:23 PM

---

Thanks for the FYI, Phil.

Much appreciated.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Friday, November 02, 2012 10:57 AM  
**To:** Fugate, Barbara; Blank, Harvey; McNeer, Richard; Hawbecker, Karen  
**Cc:** Barlan, Bryce; Lin, Janet H; Herrell, Tony J; Stovall, James K; Juen, Jesse J  
**Subject:** BLM's Response to SOL's Comments on the Comment Analysis for the Potash Order

Barbara and others,

(b) (5)

Phil

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 1</b>	<b>Definition: Co-Development</b>
<p><b>Comment Summary:</b> Delete Section 4.d. (definition of “Co-development”) or, at a minimum, delete the last sentence of Section 4.d., which reads: “Co-development may require that the development of the resources occur at different times and from different places.” The Joint Industry Technical Committee (JITC) fully debated this issue and neither the potash nor the oil and gas industry supports inclusion of this sentence as it could be used to term limit Drilling Islands and provide a vehicle to postpone or delay permits for drilling or mining.</p> <p>Several commenters suggested that if a definition must be provided, it should read: “Co-development is the concurrent development of oil and gas and potash resources within the Designated Potash Area as a result of a cooperative effort between the potash and oil and gas industries, as regulated by the BLM, to support production of both potash and oil and gas (from the same lands) simultaneously.”</p>	
<p><b>Commenter(s):</b> <u>JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Manzano, Lea County, McClellan, Chaves County, Eddy County, Coll Brothers, Lynx, HEYCO, PBPA, AAPL, Chaves County, COG Operating, Coll Brothers, Eddy County, HEYCO, IPANM, JITC, Lea County, Lynx, Manzano, McClellan, NMOGA, PBPA</u></p>	
<p><b>Response:</b></p> <p>The BLM has revised the section in response to the comments by deleting the sentence, “Co-development may require that the development of the resources occur at different times and from different places” for the following reasons:</p> <ul style="list-style-type: none"> <li>- The sentence is not needed as the BLM already has this authority through the Federal Land Policy and Management Act of 1976 (FLPMA) (see, e.g., 43 U.S.C. 1702(c), definition of “multiple use,” and 43 U.S.C. § 1732(a)), and the Minerals Policy Act of 1970, 30 U.S.C. § 21a. Additional guidance on the “coordinated management of the various resources without permanent impairment of the productivity of the land” (43 U.S.C. 1702(c)) will be provided at the implementation stage.</li> <li>- Additionally, Section 6.e.(2)(d) of the Order provides the BLM the authority to determine “the appropriate designation of a Development Area in terms of location, shape and size.”</li> </ul> <p>The BLM does not accept the suggestion to alter the definition to include the term “simultaneous,” which could cause confusion given the discussion of that term in prior litigation related to the DPA. See <u>In the Matter of Yates Petroleum Corp.</u>, IBLA 92-612, ALJ Order on Remand (July 7, 2003) at 57.</p>	
<p><b>Regulatory Framework:</b> FLPMA, IBLA 92-612, Draft Secretarial Order</p>	
<p><b>Follow-up Activities:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

(b) (5)

<b>Comment Number: 2</b>	<b>Joint Recommendation- Drilling Islands</b>
<p><b>Comment Summary:</b> Section 6.e.(1)(c) refers only to single well sites. It is important to be able to establish Drilling Islands as well as single well sites even if Development Areas are not established when both the oil and gas operator and affected potash lessee support the proposal. Amend Section 6.e.(1)(c) to include the language put forth by the JITC:</p> <p>(1) Drilling within the Designated Potash Area</p> <p>(c) <del>a single well site established under this Order by the approval and in the sole discretion of the Authorized Officer, provided that such site was jointly recommended to the Authorized Officer by the oil and gas lessee(s) and the nearest potash lessee(s), a Drilling Island or single well site established under this Order by the authorization of the Authorized Officer, provided that such site was jointly recommended to the Authorized Officer by the oil and gas lessee(s) and the nearest potash lessee (s).</del></p>	
<p><b>Commenter(s):</b> <del>JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA AAPL, COG Operating, HEYCO, JITC, NMOGA, PBPA, Yates</del></p>	
<p><b>Response:</b> The BLM will add the term “Drilling Island” to Section 6.e.(1)(c) as there may be circumstances that make it appropriate to establish a Drilling Island that is not inside a Development Area (new Drilling Islands inside Development Areas are covered by Section 6.e.(1)(a)) or to allow a single well site to be expanded to accommodate additional drilling at a later time. The factors that make a location suitable for a single well are the same factors that make it appropriate for a Drilling Island. The BLM has retained the phrase “in the sole discretion of the Authorized Officer” to make clear that a joint recommendation does not bind the BLM, which retains the ultimate decision making authority. Section 6.e.(1)(c) now reads:</p> <p>(1) Drilling within the Designated Potash Area</p> <p>(c) a Drilling Island, <del>not covered by (a) above, or single well site established under this Order by the approval and in the sole discretion of the</del> <sup>(b) (5)</sup> <del>Authorized Officer, provided that such site was jointly recommended to th</del> <sup>(b) (5)</sup> <del>Authorized Officer, by the oil and gas lessee(s) and the nearest potash lessee(s).</del></p>	
<p>In order to make the definition of “Drilling Island” at Section 4.g. consistent with this revision, the word “usually” in that definition has been moved, to read:</p> <p>An area established by the BLM usually associated with and within a Development Area . . .</p> <p>(The phrase in the proposed definition read: “An area established by the BLM associated with and usually within a Development Area . . . .”) The definition of a Drilling Island has also been revised in response to other comments. See Comment 16.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p> <p>(b) (5)</p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 3</b>	<b>Agreements between Potash and O&amp;G</b>
<b>Comment Summary:</b> The BLM will not honor agreements between the potash and oil and gas lessee in the draft Order, but will allow a joint recommendation for a single well site, which will only be approved at the discretion of the BLM. Any existing incentive for the industries to cooperate has been removed.	
<b>Commenter(s):</b> HEYCO	
<b>Response:</b>  Agreements between private parties are not binding on the BLM, nor is the BLM in a position to interpret or enforce such agreements. However, as the commenter notes, the BLM will consider a joint recommendation, which provides incentive for cooperation between potash and oil and gas lessees. The BLM must retain discretion to accept or reject recommendations, as it cannot delegate to third parties its responsibilities under FLPMA and other statutes, as well as potash and oil and gas regulations, to manage the resources in a manner which not only maximizes recovery but benefits both present and future generations.	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b> None	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 4</b>	<b>Access to Data</b>
<p><b>Comment Summary:</b> The proposed Order allows record owners to withhold existing core data from oil and gas operators engaged in the design of core acquisition programs to establish Barren Areas. Amend Section 6.e.(8)(c) to reflect the language put forth by the JITC:</p> <p>(8) Access to Maps and Surveys  (c) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the <del>owner of the records</del> <u>BLM</u> to the operator of the planned program subject to the data management protocols as referenced in 6.e.(6)(c). <del>Record owners are encouraged to comply as fully as possible with this paragraph so that the best available science may be used to define Barren Areas.</del> The BLM will use all data available to it when delineating Barren Areas, <del>even if some of the data was not available to the operator of the core acquisition program designed to prove the Barren Area.</del></p> <p>Other commenters add: The draft Order allows the BLM to maintain as secret all core data that will be utilized in establishing Barren Areas. Moreover, the provision does not require disclosure of economic thickness and grade information. Data exchange has been basically eliminated from the Order.</p>	
<p><b>Commenter(s):</b> <del>JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA</del>  <del>AAPL, COG Operating, HEYCO, JITC, NMOGA, PBPA, Yates</del></p>	
<p><b>Response:</b></p> <p>The BLM has modified Section 6.e.(8)(c) in response to the comment. The revised section reads:</p> <p>(8) Access to Maps and Surveys  (c) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the BLM to the operator of the planned program to the extent allowed by law, subject to the data management protocols as referenced in Section 6.e.(6)(c), and consistent with 43 C.F.R. Part 2 and sections 3503.41- .43. The BLM will use all data available to it when delineating Barren Areas.</p> <p>The additions to the suggested text refer to existing regulations that govern the release of potentially confidential information. The BLM will develop data management protocols through Instruction Memoranda that will identify a process for data sharing. This process will be designed to protect the relative equities of the requesting party and the owner of the record. These protocols and processes will also be consistent with law and regulations related to records management.</p> <p>While the BLM will release data under this provision to the extent allowed by law, <u>if the BLM has access to data that it is prohibited by law from releasing, it is nevertheless obligated to take</u></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

(b) (5)

that data into account when delineating Barren Areas.

**Regulatory Framework:**  
FOIA

**Follow-up Activities:**  
Revise as provided above.

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 5</b>	<b>“Managing” v. “Limiting” Impacts</b>
<p><b>Comment Summary:</b> The JITC fully debated the language it put forth regarding establishment of development areas in Sections 4.f. and 6.e.(2)(d)(i). The JITC, with support from both the oil and gas and potash industries, recommended that development areas will be established to “allow effective extraction of oil and gas resources while <i>managing</i> the impact on potash resources.”</p> <p>In the proposed Order, “managing” has been replaced by “limiting.” The effect of this change is to place the BLM in the role of limiting, rather than managing, the effect of oil and gas development on all potash, whether or not commercial.</p> <p>Change the word “limiting” to “managing” in Sections 4.f. and 6.e.(2)(d)(i).</p>	
<p><b>Commenter(s):</b> <del>JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Lea County, PBPA</del> <del>AAPL, COG Operating, IPANM, JITC, Lea County, NMOGA, PBPA, Yates</del></p>	
<p><b>Response:</b></p> <p>The BLM will accept the substitution of “managing” for “limiting” in the two places where the word is used: Sections 4.f. and 6.e.(2)(d)(i). The use of the word “limiting” in the proposed Order was not intended as a substantive alteration. The word “managing,” accurately reflects the BLM’s mandate to allow for concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits within the Designated Potash Area. It preserves the BLM’s flexibility in the establishment of Development Areas. This change is consistent with FLPMA’s definition of multiple use, 43 U.S.C. 1702(c).</p>	
<p><b>Regulatory Framework:</b> FLPMA</p>	
<p><b>Follow-up Activities:</b> (b) (5)</p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 6</b>	<b>Notice to Affected Parties</b>
<p><b>Comment Summary:</b> The proposed Order omits important notice requirements to some affected parties. Notice of proposed drilling should be given to all affected potash interests, oil and gas interests, and surface rights owners. Amend Section 6.e.(7) to the following:</p> <p>e. Oil and Gas Drilling  (7) Notice to <del>Potash Lessees</del> <u>Affected Parties</u>. An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area <u>and to the owners of the oil and gas rights and surface owners affected by such application, plan or proposal</u>. A list of <del>current</del> <u>the affected</u> potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. <u>The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan or proposal</u>. This notice should be prior to or concurrent with the submission of the application, plan or proposal to the BLM. The BLM will not authorize any action prior to this notice.</p>	
<p><b>Commenter(s):</b> <del>JITC, COG Operating, AAPL, NMOGA, Yates, PBPA</del>  <u>AAPL, COG Operating, JITC, NMOGA, PBPA, Yates</u></p>	
<p><b>Analysis/Response:</b></p> <p>(b) (5)</p> <p>e. Oil and Gas Drilling  (7) Notice <sup>(b) (5)</sup> <del>to Potash Lessees</del> <u>Affected Parties</u>. An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area <u>and to the owners of the oil and gas rights and surface owners affected by such application, plan, or proposal</u>. A list of current Federal potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. <u>The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan, or proposal</u>. This notice should be prior to or concurrent with the submission of the application, plan or proposal to the BLM. The BLM will not authorize any action prior to this notice.</p>	
<p><b>Regulatory Framework:</b></p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

**Follow-up Activities:**  
Revise as provided above.

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 7	<b>Authorities</b>
<p><b>Comment Summary:</b> Section 6.e.(2) includes language that suggests DOI may include non-federal lands in a Development Area; and that DOI may therefore prohibit owners of mineral fee or leasehold interests from developing oil and gas resources unless they are in accordance with the proposed Order's drilling restrictions and unitization requirements. It is unclear if this is DOI's intent and, if so, if DOI actually has this authority.</p>	
<p><b>Commenter(s):</b> <u>HEYCO</u>, NMOCD, <del>HEYCO</del></p>	
<p><b>Response:</b> (b) (5)</p> <p>deposits owned by the United States because the Federal government does not have authority to regulate non-Federal mineral estates. (See Sections 1 and 3, restricting the reach of the Order to "oil and gas and potash deposits owned by the United States.") The sentence in section 6.e.(2) that states "A Development Area may include ... non-federal lands," is simply an acknowledgement that in this area of mixed ownership, a Development Area that is established based on geologic, operational, and safety considerations may include such lands. The Order does not apply to the non-Federal lands, but the Federal lessees and operators are on notice that further actions under State law may be required to effectuate the purposes of the Development Area with regard to lands over which the Department of the Interior does not have jurisdiction. The proposed Order does not "prohibit" or in any way direct the owners of non-Federal mineral estates. However, it is recognized that cooperation with the non-Federal mineral estate owners and the State of New Mexico is necessary. The provisions in Sections 6.e.(4) and (5) establish a framework to work cooperatively with non-Federal mineral estate holders and the State of New Mexico in entering into the necessary agreements to effectuate the purposes of a Development Area with mixed mineral ownership. It may also be to the benefit of the private interest holder to develop the private interest by way of a Drilling Island located on Federal land. The Order is written so that this arrangement would be permissible.</p>	
<p><b>Regulatory Framework:</b> Mineral Leasing Act, 43 CFR, draft Order Sections 1 and 2.</p>	
<p><b>Follow-up Activities:</b> None</p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 8</b>	<b>Regulatory Conflict</b>
<b>Comment Summary:</b> There is a potential for conflicting determinations regarding APD approvals by the State of New Mexico and DOI. This is due to the differences between the New Mexico Oil Conservation Division (NMOCD) and BLM regulatory frameworks.	
<b>Commenter(s):</b> NMOCD	
<b>Response:</b>	
<p>Section 6.e.(5).(b) of the proposed Order reads:</p> <p>The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.</p> <p>This section was carried over verbatim from the 1986 Order. Nevertheless, because the BLM agrees with the NMOCD that the wording of the section is not precise and could create confusion, it has deleted all but the first sentence of this section from the final Order. This deletion has no effect on the ability of any person to seek relief from the NMOCD under its rules and regulations, nor is this deletion or any provision of the Order intended to add or detract from the authority of the NMOCD or of the Secretary in relation to the State of New Mexico.</p> <p>The following language has been deleted from 6.e.(5).(b):</p> <p><del>The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.</del></p>	
<b>Regulatory Framework:</b> 1986 Order Section III.E.3.	
<b>Follow-up Activities:</b> Revise as provided above.	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 9</b>	<b>Implementation of Order</b>
<p><b>Comment Summary:</b> The BLM and affected potash and oil and gas interests should form a team to implement the Order to guide orderly, concurrent development. Some form of internal guidance, whether policy through instruction memoranda, manual or handbook would be appropriate. The Carlsbad RMP should include: the implementation guidelines developed by the team; agreements regarding the location of drilling islands and individual wells; and management prescriptions regarding leasing and development of both resources.</p>	
<p><b>Commenter(s):</b> NMOGA</p>	
<p><b>Response:</b></p> <p>The BLM will incorporate <u>the substance of the revised Order</u> in the Carlsbad Resource Management Plan (RMP), a revision of which is scheduled to be completed in 2014.</p> <p>The BLM intends to work closely with affected potash and oil and gas lessees and operators in managing the DPA under the revised Order and agrees that orderly implementation of the Order will be facilitated by cooperation between the two industries. The BLM will develop internal guidance through Instruction Memoranda, Information Bulletins, Notices to Lessees, and manuals and handbooks to promote orderly co-development, while also adhering <u>to existing regulations in the administration of the Order. The BLM will use an open process to develop this internal guidance.</u></p> <p><u>The Draft RMP is scheduled to be released for review in mid-2013. Management prescriptions regarding leasing are ordinarily included in land use plans. Implementation guidelines, and, individual drilling islands and well site decisions are normally made outside of RMPS, but are subject to the land use allocations made within RMPs. The public will be encouraged to comment on the Draft RMP following its publication.</u></p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

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(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 10</b>	<b>Order Not Scientifically Based</b>
<p><b>Comment Summary:</b> The proposed Order is not scientifically or technically based or supportable. The Secretary should await the imminent completion of valid scientific studies, and thereafter base the determination of Secretarial policy on such science. Sandia must be able to complete its gas migration study and any additional required safety related tests.</p>	
<p><b>Commenter(s):</b> <del>Yates, IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea County, Chaves County, Coll Brothers, Manzano, McClellan, Lynx, Featherstone, Mack Energy Chaves County, Coll Brothers, Eddy County, EOG, Fasken Featherstone, Hanson, HEYCO, IPANM, Lea County, Lynx, Mack Energy, Manzano, McClellan, Mewbourne, Yates</del></p>	
<p><b>Response:</b> The studies related to concurrent development of potash and oil and gas resources that were funded by the BLM and conducted by Sandia National Laboratories have been <u>completed</u>. Although, as is often the case with scientific studies, some of the results were inconclusive, BLM has determined that it is in the public interest to finalize the Order at this time. With regard to Buffer Zones, the Order provides at Section 6.e.(3) that BLM may revise the zones based on science, engineering, and new technology.</p> <p>The BLM will continue to use sound science to inform its decision making. This is made explicit in the Draft Order at Section 7.d:              The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.</p> <p>The BLM will continue to consult with the JTC and scientific advisors to address issues in the DPA. The BLM will incorporate any additional advances in science and technology in its administration of the Order, including guidance through Instruction Memoranda, Information Bulletins, Notices to Lessees, and other means as necessary to promote orderly co-development.</p>	
<p><b>Regulatory Framework:</b> Draft Order, Section 7.d; Secretarial Order 3305; Departmental Manual 305 DM 2 and 305 DM 3.</p>	
<p><b>Follow-up Activities:</b> (b) (5)</p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 11</b>	<b>Lack of Concurrent Development</b>
<p><b>Comment Summary:</b> The proposed Order precludes concurrent development of the potash and oil and gas resources by denying the industries equal access. The proposed Order gives preeminence to potash and restricts oil and gas development in the entire Potash Area, regardless of the commerciality of the potash. The draft Order states it is the policy "to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area," unless the BLM determines one of three exceptions apply (Section 6.e.(1)). None of the exceptions are mandatory and each provides unfettered discretion on the part of the BLM or nearest potash lessee.</p> <p>A proposed well would be an "exception" to a rule rather than evaluated independently on its own merits.</p> <p>The policy has moved to the pre-1951 potash reserve concept. Furthermore, the lack of concurrent development of the resources constitutes a FLPMA violation.</p>	
<p><b>Commenter(s):</b> <del>Yates, IPANM, Fasken, PBPA, Eddy, EOG, Mewbourne, Hanson, Lea, McClellan, Manzano, Lynx</del> Eddy County, EOG, Fasken, Hanson, IPANM, Lea County, Lynx, Manzano, Mewbourne, McClellan, PBPA, Yates</p>	
<p><b>Response:</b></p> <p>(b) (5)</p> <p>Far from moving back to the pre-1951 era, the revised Order takes advantage of technological advances in horizontal drilling capabilities to extend the Drilling Island concept found in the 1986 Order, and adds the concept of Development Areas, which may be located throughout the DPA. These provisions are designed to allow oil and gas drilling in a manner that also protects known or potential potash deposits. Extending the Drilling Island concept to areas with Inferred, Indicated, or Unknown potash resources was originally recommended by the JITC.</p> <p>The revised Order allows Development Areas to be proposed anywhere in the DPA, including those areas known to have commercial deposits of potash (the enclave designation). The revised Order provides that BLM will determine whether to establish a new Development Area and Drilling Island when it processes an APD. Development Areas will be established with more flexibility when further away from current and near-term traditional potash mining operations. Drilling Islands that already exist in the enclave are recognized. Areas around existing wells in the DPA might also be candidates for expansion to Drilling Islands, with associated Development Areas established around with them. The new Order also permits routine processing of Applications for Permit to Drill (APDs) in already known Barren areas or areas proven to be Barren by additional core hole drilling. The Order further provides for possible Drilling Islands outside of Development Areas or for <b>single well sites</b> if they are jointly recommended by oil and gas and potash lessees.</p> <p>While these provisions differ from those in the 1986 Order, they do not close or withdraw the lands from oil and gas exploration. These provisions should lead to more cooperative development that may maximize the production of both resources. The provisions in the Order fully comply with the requirements of FLPMA, the Mineral Leasing Act, and the implementing</p>	

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(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

regulations.

**Regulatory Framework:** Mineral Leasing Act of 1920, as amended (MLA), FLPMA, 43 CFR,  
JITC comments dated 4/5/12, page 2 of 15.

**Follow-up Activities**<sup>(b) (5)</sup>

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 12</b>	<b>Effect on Small Operators</b>
<p><b>Comment Summary:</b> The proposed Order does not consider the substantial negative impact it will have on the ability of small independent oil and gas companies to explore for, drill and produce oil and gas from their federal oil and gas leases within the Potash Area. The proposed Order essentially prevents smaller companies from the opportunity to develop their resources by the provisions providing for forced unitization, consolidation of operatorship, and essentially requiring expensive horizontal or deviated well bores to penetrate prospective oil and gas formations from Drill Islands.</p>	
<p><b>Commenter(s):</b> <del>Yates, Fasken, McClellan, Manzano</del> Fasken, Manzano, McClellan, Yates</p>	
<p><b>Response:</b></p> <p>Under the 1986 Secretarial Potash Order, oil and gas development within the DPA has been restricted. Within the known potash reserves (“enclaves”), which make up 58.9 percent of the DPA, the 1986 Order provides for the same type of Drilling Islands, or drilling from Barren Areas, that the revised Order will extend throughout the DPA. Currently, inaccessible leases within the enclaves are suspended or have been unitized and held by production when leases are constrained by proximity to open mine workings or known potash reserves. Therefore, BLM expects the revised Order’s effect on operations within the enclaves to be less noticeable than its effect on operations within the DPA but outside of the current enclaves. The revised Order’s focus on Development Areas and Drilling Islands will have differential impacts on oil and gas operators depending on the location of the proposed Drilling Islands and their proximity to specific leases, the size of the lease, the financial assets of the lessee, drilling and development strategies, etc.</p> <p>In most cases, the establishment of Development Areas and Drilling Islands throughout the entire DPA will require that zones are developed through horizontal drilling and hydraulic fracturing. In general, this methodology is a more efficient method of developing the Delaware and Bone Springs Formations, resulting in more complete extraction of the resource, less surface disturbance, and consolidated infrastructure. Over 90 percent of the oil and gas wells in those formations in southeastern New Mexico are now being developed through horizontal drilling and hydraulic fracturing. Horizontal development has become the <i>de facto</i> industry standard and in general is perceived as a superior method of oil and gas development in unconventional reservoirs. However, the cost of a horizontal well is significantly more than a conventional vertical well. While this may create difficulties for some smaller operators who do not have the financial or technological means to support individual horizontal drilling to reach their leases, it is expected that increased unitization and consolidated operations may mitigate these potential difficulties. A smaller lessee’s costs would be proportional to its acreage within a Development Area, and the additional recoverable reserves from the newer methodology would be a net benefit. We also note that the new Order does not preclude vertical wells in appropriate locations.</p> <p>(b) (5)</p> <p>preferred method. However, they would have opportunities to develop their resources within the</p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

parameters of the Order and to participate in unit agreements. Economic impacts on individual companies will be situation-specific based on the size of the Development Area and proximity of Drilling Islands to their individual leases. While the BLM receives copies of unit operating agreements, the BLM is not a party to these agreements among companies. Based on individual circumstances, some operators may benefit from these agreements while others may not.

The overall end result of the proposed revision to the Secretarial Potash Order is that more areas within the DPA will be made available for oil and gas extraction while protecting potash reserves and open mine workings throughout the DPA. While the proposed revision is expected to benefit the overall economic outlook for both industries, the exact economic effects and impacts specific to certain companies remains unknown.

**Regulatory Framework:**  
1986 Order, FLPMA

**Follow-up Activities:**  
(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 13</b>	<b>Lack of Public Participation</b>
<p><b>Comment Summary:</b> A meaningful opportunity for participation from all affected parties and governmental entities has not been provided. The Secretary has not held any public meetings or hearings on the draft Order. The process leading to the proposal of the draft Order has been inexplicably and unnecessarily fast tracked in a manner that has discouraged public involvement as well as the involvement of companies and entities that will be directly affected by the promulgation of a new order.</p>	
<p><b>Commenter(s):</b> <del>Yates, IPANM, HEYCO, Eddy, EOG, Hanson, Mewbourne, Lea County, McClellan, Manzano, Strata, Chaves County, Coll Brothers, Lynx</del>  <del>Chaves County, Coll Brothers, Eddy County, EOG, Hanson, HEYCO, IPANM, Lea County, Lynx, Manzano, McClellan, Mewbourne, Strata, Yates</del></p>	
<p><b>Response:</b></p> <p>On July 13, 2012, BLM published in the Federal Register a Notice of Availability of the proposed Secretarial Order, announcing the opening of a 30-day public comment period. In response to requests for additional time to review the proposed Order, BLM then extended the comment period for an additional 15 days.</p> <p>The initial conceptual framework for a revised Secretarial Order was provided by the JITC following a request from Secretary of the Interior Ken Salazar. The JITC is an industry committee established in 2010 and comprised of membership from both the potash and oil and gas industries. The JITC is not a Federally chartered organization and the BLM is not a member. The oil and gas membership is comprised of large, medium, and small companies that are responsible for the majority of production and operations within the DPA. The potash members of the JITC represent all of the current potash production in the DPA.</p> <p>The BLM received 28 written comments on the proposed Order, ranging in length from one sentence to 26 pages. The commenters included oil and gas and potash operators and lessees (both JITC members and non-members); industry trade associations; Eddy, Lea, and Chaves counties; the New Mexico Oil Conservation Division; a New Mexico state representative; and individuals. BLM carefully considered all comments and made several revisions to the proposed Order in response to comments. BLM also consulted with seven Federally recognized tribes with tribal interests within the DPA and met with members of the New Mexico State legislature and representatives of Eddy and Lea Counties.</p> <p>BLM believes that affected parties and governmental entities have been provided sufficient meaningful opportunity to review and comment on the proposed Order.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 14</b>	<b>Redraft the Purpose</b>
<p><b>Comment Summary:</b> It is recommended that the Purpose of the draft Order be redrafted to be consistent with the language of the 1986 Order, which mandated, rather than simply “fostered”, concurrent development. By using the term “fostered,” the proposed Order is consistent with the notion that drilling is not mandated anywhere in the Potash Area:</p> <p style="padding-left: 40px;">This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), and provides <i>procedures and guidelines for fostering</i> more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area . . . .</p>	
<b>Commenter(s):</b> Yates	
<p><b>Response:</b></p> <p>The BLM accepts the comment and has deleted the term “fostering” from the Purpose of the draft Order due to its potential ambiguity. The new section reads:</p> <p style="padding-left: 40px;"><b>Sec. 1. Purpose and Effect.</b> This Order revises and supersedes the Order of the Secretary of the Interior, dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.</p>	
<b>Regulatory Framework:</b>	
<p><b>Follow-up Activities:</b> (b) (5)</p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 15</b>	<b>NEPA</b>
<p><b>Comment Summary:</b> The draft Order represents a major federal action that requires full adherence to the National Environmental Policy Act, including appropriate environmental and economic analysis, as well as public participation.</p> <p>The draft Order fails to analyze and provide a detailed statement of how it affects the “maintenance and enhancement of long-term productivity” of the Potash Area. (See NEPA Section 102 (c)(iv).)</p>	
<p><b>Commenter(s):</b> <del>Yates</del>, Lea County, <del>Yates</del></p>	
<p><b>Response:</b></p> <p>(b) (5)</p> <p>promote productive co-development of resources and is therefore not a major Federal action. Pursuant to 43 CFR 46.210(i), Federal actions that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the National Environmental Policy Act (NEPA) process, either collectively or case-by-case, are categorically excluded from the NEPA process under 43 CFR 46.205(b), unless any of the extraordinary circumstances under 43 CFR 46.215 apply. This proposed revision of the Potash Order does not trigger any of those extraordinary circumstances. As an administrative modification, the Order provides direction to the BLM, but will not lead to surface disturbance or direct environmental consequences. The Order does not lease any lands for oil and gas or potash or approve any development plans. The environmental impacts of mineral development in the area will be analyzed under NEPA in subsequent documents accompanying decisions to issue leases or to approve development plans.</p> <p>Although we have concluded that this action may be categorically excluded under NEPA, the BLM elected to prepare an Environmental Assessment (EA) in order to aid its decision-making process. The EA evaluated possible environmental and economic impacts of the Order and is available on BLM’s website at <a href="#">www</a> (b) (5)</p> <p>Existing statutes and regulations already require BLM to regulate the impact of oil and gas operations on other uses and users of the public lands. In addition to the requirement in FLPMA that the Secretary take any action necessary to prevent unnecessary or undue degradation of the public lands (including interests in those lands), the Mineral Leasing Act, and the Department’s existing regulations and onshore orders allow the BLM to impose conditions of approval on permits to drill and require protection of other mineral resources, other natural resources, environmental quality, life, health, safety, and property in or on the public lands. See 43 U.S.C. 1732(B) 1702(e); 30 U.S.C. 226(g); 43 CFR 3101.1-2, 3162.1, 3164.1, and Onshore Oil and Gas Order No. 1, 72 Fed. Reg. 10305, 10335, para. III.F.a.3 (2007). The proposed Order applies those authorities to the specific conflicts between oil and gas development and potash mining in the area in a way that will be predictable and practical, but does not irrevocably commit any resources to any use.</p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Regulatory Framework:</b> 1986 Order; See 43 CFR 46.210(i); 43 CFR 46.205(b); 43 U.S.C. 1732(B) 1702(e); 30 U.S.C. 226(g); 43 CFR 3101.1-2, 3162.1, 3164.1, and Onshore Oil and Gas Order No. 1, 72 Fed. Reg. 10305, 10335, para. III.F.a.3 (2007); NEPA.
<b>Follow-up Activities:</b> Finalize EA

<b>Comment Number: 16</b>	<b>Definition: Drilling Island</b>
<b>Comment Summary:</b> The definition of "Drilling Island" is inadequate. Add the following language, originally included in the JITC's Consensus Document, to the definition of a Drilling Island, Section 4(g): "the size and shape of a Drill Island defines the areal extent of wellbore penetrations of the potash formations and is to be as small as practical to allow effective oil & gas development while managing impact on potash." This definition underscores the commitment to development of both oil and gas and potash.	

**Commenter(s):** ~~Yates~~, IPANM, Manzano, McClellan, ~~Yates~~.

**Response:**

The BLM accepts the comment and has revised the definition of "Drilling Island" to include the suggested language from the JITC's Consensus document with some small clarifying modifications. The full definition will read:

An area established by the BLM, usually associated with and within a Development Area from which all new drilling of vertical, directional, or horizontal wells that newly penetrate the potash formations can be performed to support the development of oil and gas resources. The size and shape of a Drilling Island defines the area where wellbore penetrations of the potash formations will be allowed and is to be as small as practical to still allow effective oil and gas development while managing impacts on potash.

The added sentence incorporates into the definition concepts found in the Order at Section 6.e.

We have also moved the word "usually" to be consistent with the revision to Section 6.e.(1)(c), allowing for a Drilling Island not associated with a Development Area. See response to Comment 2.

The Drilling Island boundary is administratively approved through the decision of the BLM, as provided at Section 6.e.

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<b>Regulatory Framework:</b>
<b>Follow-up Activities:</b> (b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 17	<b>Definition:</b> Indicated and Inferred Resources
<p><b>Comment Summary:</b> Indicated and Inferred Resources should not be defined, as the terms are pertinent only to the task of properly mapping potash resources, and for those purposes, the terms must be defined as they are customarily defined by the Society of Mining Engineers.</p> <p>The definition of “Inferred Resources” as contained in the draft Order incorrectly allows well logs to be used. The use of well logs in defining inferred resources would allow the potash industry to expand inferred resources in a manner that is not scientifically supported.</p>	
<p><b>Commenter(s):</b> <u>Yates, IPANM, HEYCO, Fasken, Eddy, Hanson, Mewbourne, EOG, Lynx, McClellan, Manzano Eddy County, EOG, Fasken, Hanson, HEYCO, IPANM, Lynx, Monzonao, McClellan, Mewbourne, Yates</u></p>	
<p><b>Response:</b> (b) (5)</p>	
<p>The use of well logs to determine “Inferred Resources” is appropriate. Well logs can be used to show the presence of potassium, but cannot be used to identify the minerals that contain the potassium. Using the well logs and the understanding of the Saludo Formation developed over the past 80 years one can infer the presence of potash, but not be able to determine the mineralogy, grade, or economic value of the inferred resource. <u>Well logs provide indirect measurements of potassium and can support the mineral classification of the lands.</u></p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 18</b>	<b>Configuration of Buffer Zones</b>
<p><b>Comment Summary:</b> Section 6.e.(3) of the draft Order removes from the State and local offices of the BLM the authority for configuring buffer zones and places it in the sole discretion of the BLM Director; this means buffer zones and their dimensions are established as a matter of policy and cannot be challenged or changed without action from the Director.</p>	
<p><b>Commenter(s):</b> Yates</p>	
<p><b>Response:</b></p> <p>The Secretary, through his Orders, gives direction to his Bureau Directors. A great deal of discretion is often provided to Directors on how to implement Orders. Generally the Secretary is reluctant to specify in a Secretarial Order decision-making levels within a Bureau because it limits the discretion of Directors.</p> <p>Section 6.e.(3) of the draft Order will be implemented through Section 9, which specifically authorizes the Director to re-delegate responsibilities granted to him as appropriate, and Section 7(c) and Section 7(c), which authorizes the Director to use broad discretion in implementing the Order .</p> <p>As a general matter the BLM seeks to delegate authority to the lowest level in the organization practical for the efficient management of the public lands and greatest service to the public. Most BLM authorities are derived from the Secretary and delegated through the Assistant Secretary to the Director. BLM authorities, for purposes of re-delegation within the BLM, are generally derived from the Director. The delegation of authority is documented through Secretarial Orders, the Departmental Manual (235 DM with regard to the BLM), and section 1203 of the BLM Manual. The term "Authorized Officer," defined in 43 CFR Part 3000, identifies the individual who can make decisions. The Authorized Officer can make decisions because he or she has been properly delegated the authority needed to make such a decision. This term is also defined in the Order.</p> <p>Section 6.e.(3) of the Order provides that buffer zone dimensions will be revised based on science, engineering, and new technology. Revision of the buffer zones is not a matter of policy.</p>	
<p><b>Regulatory Framework:</b> Departmental Manual (235 DM); BLM Manual (Section 1203); 43 CFR Part 3000</p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 19</b>	<b>Mapping Process</b>
<p><b>Comment Summary:</b> Section 6.d.(9): Delineation of Resource Areas: This provision requires potash lessees to annually provide maps of potash resources and three year mine plans, and further requires the BLM to review the information and make revisions to the boundaries of the reserves as indicated on the potash company submittals. The draft Order merely requires the BLM to accept maps submitted by the potash industry, and does not require the BLM to independently verify the information or review the sources relied upon by the potash company. Thus, the potash industry, rather than the BLM, has the ability through the mapping process to effectively preclude all oil and gas operations in the Potash Area.</p>	
<p><b>Commenter(s):</b> Yates</p>	
<p><b>Response:</b></p> <p>In response to this comment, the BLM has added the words "Upon verification" to the section. Section 6.d.(9) now reads:</p> <p>The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. <u>Upon verification</u>, the Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.</p> <p>It is the BLM's standard practice to review the data that is submitted in order to verify it before using the data for mapping purposes.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

Comment Number: 20	Defacto Withdrawal
<p><b>Comment Summary:</b> The draft Order is a substantial change in the administration of concurrent development within the Potash Area. The 1986 Order only protects the areas known to contain sufficient potash of sufficient grade and thickness to be mined and marketed at a profit (enclaves). The draft Order extends protection to the entire Potash Area of 497,002.03 acres, and therefore constitutes a defacto withdrawal.</p> <p>The draft Order violates Section 1714 of FLPMA as the Secretary has not followed the withdrawal procedures set forth therein and considered "the economic impact of the change in use on individuals, local communities, and the Nation." FLPMA Section 204 (c)(2).</p>	
<p><b>Commenter(s):</b> IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea, McClellan, Manzano, Lynx, PBPA Eddy County, EOG, Fasken, Hanson, HEYCO, IPANM, Lea County, Lynx, Manzano, McClellan, Mewbourne, PBPA</p>	
<p><b>Response:</b> The revised Order does not close the area, withdraw it from oil and gas development, or create a potash reserve in the DPA. Oil and gas leasing may still occur and, in fact, additional leasing is anticipated. As a result of the revised Order, leases that are currently under suspension because they are located within areas of known potash reserves (enclaves) may be brought out of suspension and developed using current technologies and implementation of the Development Area concept.</p> <p>(b) (5)</p> <p>The revised Order takes advantage of technological advances in horizontal drilling capabilities to extend the Drilling Island concept found in the 1986 Order, and adds the concept of Development Areas which may be located throughout the DPA. These provisions are designed to allow oil and gas drilling in a manner that also protects known or potential potash deposits. Extending the Drilling Island concept to areas with Inferred, Indicated, or Unknown potash resources was originally recommended by the JITC.</p> <p>(b) (5)</p> <p>enclaves known to have commercial deposits of potash. Development Areas will be established with more flexibility when further away from current and near-term traditional potash mining operations. Drilling Islands that already exist in the enclave are recognized and additional drilling at these locations could be considered. Areas around existing wells in the DPA might also be candidates for expansion to Drilling Islands, with associated Development Areas established around with them. The new Order also permits routine processing of APDs in already known Barren areas or areas proven to be Barren by additional core hole drilling. The Order further provides for possible Drilling Islands outside of Development Areas or for single well sites if they are jointly recommended by oil and gas and potash lessees.</p> <p>While these provisions differ from those in the 1986 Order, they clearly do not close or withdraw the lands from oil and gas exploration. These provisions should lead to more cooperative development that may maximize the production of both resources. The provisions in the Order fully comply with the requirements of FLPMA, the Mineral Leasing Act, and the implementing regulations.</p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

<b>Regulatory Framework:</b> MLA, FLPMA, 43 CFR, JTC comments dated 4/5/12, page 2 of 15.
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<b>Follow-up Activities:</b>
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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 21</b>	<b>Unlawful Leasing Restriction</b>
<p><b>Comment Summary:</b> Section 6.c.(3) limits the ability of citizens of the United States to acquire a potassium lease as the bidder must “intend to develop the potash resources...” This prohibits citizens from securing a potassium lease for investment purposes.</p> <p>The draft Order creates a monopoly on who may bid on and hold potassium leases in direct conflict with the Mineral Leasing Act of 1920, leasing regulations and anti-trust laws.</p> <p>There is no similar protection granted, nor should there be, to parties acquiring oil and gas lessees.</p>	
<p><b>Commenter(s):</b> <del>IPANM, HEYCO, McClellan, Manzano</del> <u>HEYCO, IPANM, Manzano, McClellan</u></p>	
<p><b>Response:</b></p> <p>Section 6.c.(3) states:</p> <p style="padding-left: 40px;">Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with applicable diligence stipulations.</p> <p>The BLM has been including a diligence stipulation on potassium leases since the mid-1990s. This stipulation ensures that the potash resources owned by the United States are developed in a timely fashion. This provision in the Order ensures that bidders are aware of that stipulation and are willing to comply with it.</p> <p>The provision has no effect on a bidder who wishes to acquire leases as investments with the expectation that a separate entity will perform the actual operations on the lease, as such a bidder clearly has an interest in developing, and intends to develop, the potash resources through the third-party operator. The provision does not create any sort of monopoly, as any entity with an interest in potash development may bid on a potash lease.</p> <p>This provision is consistent with the Mineral Leasing Act of 1920, BLM regulations, and anti-trust laws.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 22</b>	<b>Establishment of Development Areas/ Drilling Islands/Barren Areas</b>
<p><b>Comment Summary:</b> Under the draft Order, DOI is free to determine that development of potash mineralization is a priority over development of oil and gas mineralization in the Potash Area. There is no provision in the draft Order that affirmatively requires or mandates the BLM to form a Development Area or a Drilling Island, or approve an APD in <i>any</i> area of the Potash Area (whether or not an enclave). Furthermore, the draft Order does not require the BLM to establish the Barren Areas within the Potash Area.</p> <p>Commenters also expressed concern about the ambiguity associated with determining the size and shape of the Development Areas.</p>	
<p><b>Commenter(s):</b> <del>IPANM, HEYCO, McClellan, Manzano, Lynx</del> <u>HEYCO, IPANM, Lynx, Manzano, McClellan</u></p>	
<p><b>Response:</b> _____</p> <p>Pursuant to the Order, the BLM will continue to work cooperatively with both the oil and gas and the potash industries. When the BLM leases a mineral, it is important that the lessee have access to the leased mineral in a manner that limits waste of any mineral and prevents dangerous conditions for all users of the lands. The Order does not abrogate any rights under any mineral lease. The revised Order does not specify the number or locations of Development Areas, Drilling Islands, or Barren Areas, or the number of permits to drill that will be issued because the Order is not a mineral development plan. Rather, it is a way forward for both industries and the BLM to provide for concurrent production of the minerals with reduced delays and expense of administrative challenges and judicial litigation. The various types of areas and the locations of Drilling Islands will be delineated based on the best geological information and the best economic and technological capabilities of the two industries.</p> <p>See also Response to Comment 11.</p> <p>This Order will be in place for a substantial period of time and needs to enable the BLM and the industries to adapt to new technology and to respond to specific resource conditions.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

(b) (5)

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 23</b>	<b>NM State Legislature Review</b>
<p><b>Comment Summary:</b> The draft Order may have a significant impact on State revenue generated from oil and gas extractions, which is estimated to be responsible for up to 40% of the state's revenue. Given the potentially detrimental fiscal effects to the state, the New Mexico State Legislature should have further opportunity to review and comment on the Order. The draft Order should be held in abeyance until the conclusion of the next session of the New Mexico State Legislature in March of 2013. Additionally, complete documentation needs to be made available to the New Mexico Legislative Finance Committee and to executive agencies of the state government.</p>	
<p><b>Commenter(s):</b> Dennis Kintigh (State Representative- Chaves, Lincoln, <del>&amp;-and</del> Otero <u>Counties</u>)</p>	
<p><b>Response:</b></p> <p>In order to inform its decision-making process in revising the Secretarial Order, the BLM prepared an Environmental Assessment (EA) that includes socioeconomic analysis sections addressing the importance of mineral development in the DPA to both the local and state economies. As stated in the EA, the BLM expects that the overall result of the new Order will be that more areas within the DPA will be made available for oil and gas extraction while protecting potash reserves and open mine workings, and that the designation of Development Areas and Drilling Islands will result in more efficient extraction of extract oil and gas resources.</p> <p>The analysis in the EA projects that increased use of horizontal drilling and hydraulic fracturing should result in higher extraction rates of petroleum resources and an overall increase in economic benefits to the oil and gas industry as a whole, with a concomitant increase in subsequent royalty payments to the state of New Mexico and the Federal Treasury. The BLM also expects that potash production will remain stable. Thus, the BLM's expectation is that, far from having detrimental effects on the state's economy, the new Order will actually result in an increase in revenue to the State of New Mexico from its share of Federal mineral royalty payments. In light of this, BLM has determined that delaying the issuance of the Order until after the conclusion of the next session of the New Mexico legislature is not warranted.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 24</b>	<b>General</b>
<b>Comment Summary:</b>	
<ul style="list-style-type: none"> <li>- Please do not allow more oil and gas and potash destruction of Southeast New Mexico. (Jurney)</li> <li>- [The Proposed Secretarial Order and changes to Policy Statements have emerged as ill timed, regressive, divisive and counterproductive documents which are both legally and scientifically flawed. (Featherstone)]</li> </ul>	
<b>Commenter(s):</b> <del>Charles Jurney, Coll Brothers Oil, Olen Featherstone, Charles Jurney Lynx, New Mexico Mining Association</del>	
<b>Response:</b>	
<p>The BLM disagrees with these assertions. The BLM manages public lands under a complex multiple-use mandate from Congress, and must consider a wide variety of factors in land management decisions, including industry interest, conservation values, and protection of the environment, as well as other potential uses of the public lands, such as outdoor recreation. These lands and resources belong to the public and, as directed by law, the BLM places a high priority on requiring that mineral leasing and development are conducted in an environmentally-sound manner while balancing other multiple use( and resource values. The purpose of the revised Secretarial Order is to encourage better coordination and management of the development of oil and gas and potash, consistent with the BLM's obligation to promote multiple use. The BLM believes that such coordination will benefit Southeast New Mexico.</p> <p>The revised Secretarial Order is designed to further promote the efficient development of potash, oil, and gas resources, while minimizing conflict between the industries and ensuring safety of operations. The initial conceptual framework for a revised Secretarial Order was provided by the JITC following a request from Secretary of the Interior Ken Salazar in January 2012. The JITC is an industry committee established in 2010 and comprised of membership from both the potash and oil and gas industries. The JITC is not a Federally chartered organization and the BLM is not a member. The oil and gas membership is comprised of large, medium, and small companies that are responsible for the majority of production and operations within the DPA. The potash members of the JITC represent all of the current potash production in the DPA. In addition to the careful consideration given to the JITC's recommendations, the BLM made the draft Order available to the public, with a 45-day public comment period, to provide all interested parties with the opportunity to comment. Finally, any subsequent decisions made pursuant to the revised Secretarial Order would be guided by NEPA analysis incorporating consideration of environmental impacts and sound scientific information.</p>	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 25</b>	<b>Safety</b>
<b>Comment Summary:</b>	
<p>A significant body of law related to the 1986 Order requires safety determinations to be made on a well by well basis.</p> <p>Many oil and gas wells have been mined through as potash mines advanced into areas of past oil and gas production. There have been no incidents of gas leaking into a mine as a result of oil and gas wells, even in areas where mining has proceeded through existing wells. The draft Order ignores the fact that the oil and gas industry has drilling methods that can successfully and safely drill through voids such as abandoned or inactive potash and coal mines.</p>	
<b>Commenter(s):</b> <a href="#">Fasken</a> , HEYCO, IPANM, <a href="#">Fasken</a>	
<b>Response:</b>	
<p>The revised Order has not altered the oil and gas lease stipulations that prohibit operations that would constitute a hazard to potash operations and provide for requirements preventing the infiltration of oil, gas, or water into potash formations, mines, or workings. These safety determinations will continue to be made on a well-by-well basis. In addition, the revised Order requires a case-by-case analysis of any proposed Development Area or Drilling Island as well as any new APDs within the DPA. The Order provides the opportunity to expand oil and gas drilling within Development Areas using updated drilling methods and technology. Safety will be a principal consideration in establishing and managing Development Areas. The revised Order is consistent with all safety provisions of the 1986 Order while also providing the opportunity for companies to take advantage of new drilling methods and technologies.</p> <p>The Order requires the BLM to use the best available science as it makes its decisions. As the potash and oil and gas industries continue to work together, the BLM expects that additional progress will be made in understanding the full safety implications of oil and gas development in the potash area. The BLM commends the excellent safety record established in the DPA, which is the result of a sustained effort by multiple parties. As all parties are aware, a continued focus on safety is required.</p>	
<b>Regulatory Framework:</b> 1986 Order	
<b>Follow-up Activities:</b> None	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 26</b>	<b>Administration of APDs</b>
<p><b>Comment Summary:</b> The BLM has represented for many years that the Potash Order should be rewritten to provide clear instructions in the administration of issuing permits to drill oil and gas wells in the Potash Area, with the thought that the Order, when rewritten, would provide significant drilling opportunities for oil and gas companies. Simplified instruction to allow the BLM to approve more oil and gas APDs within the Potash Area has not been incorporated into the draft Order. In fact, the draft Order states it is the policy “to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area.” Section 6.e.(1).</p>	
<p><b>Commenter(s):</b> HEYCO, Lea County</p>	
<p><b>Response:</b></p> <p>The purpose of the revised Order is to provide procedures and guidelines for more orderly co-development of oil and gas and potash deposits owned by the United States within the DPA through safe, concurrent operations. As this Order will be in place for a substantial period of time, it has been written in a manner to enable the BLM to adapt to new technology and respond to specific resource conditions. The BLM will issue guidance through Instruction Memoranda, Information Bulletins, Notices to Lessees, and other means as necessary to provide instructions and promote orderly co-development.</p> <p>The BLM expects that the overall result of the new Order will be that more areas within the DPA will be made available for oil and gas extraction while protecting potash reserves and open mine workings, and that the designation of Development Areas and Drilling Islands will result in more efficient extraction of extract oil and gas resources.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 27	<b>Veto over APDs</b>
<b>Comment Summary:</b> Giving potash lessees a veto on every APD is defacto unlawful delegation of authority.	
<b>Commenter(s):</b> HEYCO, Yates	
<b>Response:</b> Potash lessees do not have a veto over APDs. As the commenter did not point to any language in the proposed Order that led to this concern, the BLM cannot respond to the comment with specificity. We note that the decision to authorize an APD remains with the BLM.  <u>Some of the specific concerns leading to this comment have been addressed through modifications of the new Order. For example see the response to comment 4 addressing the availability of data, comment 5 addressing the use of the word "limiting" and comment 19 about the verification of submitted data.</u>	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 28</b>	<b>Challenge Denial of APDs</b>
<b>Comment Summary:</b> The draft Order policy statements and definitions completely remove any likelihood that an aggrieved oil and gas operator could successfully challenge the denial of any APD for any proposed location anywhere in the Potash Area.	
<b>Commenter(s):</b> HEYCO, Lynx	
<b>Response:</b>	
<p>If the commenter is concerned about inability to access oil and gas under a Federal lease, the revised Order would not prevent a lessee from gaining the benefits of its lease either through unitization or through other approved drilling operations.</p> <p>If the commenter is concerned about the policy favoring unitization found in Section 6.e.(4) of the revised Order, BLM notes that the section provides that, when there is a compelling reason for another operating system, a Federal oil and gas lease (or a portion thereof) need not be unitized or included in a communitization agreement.</p> <p>If the commenter is concerned about the appeals process, BLM notes that the revised Order does not modify the appeals process. The denial of an APD remains a decision that may be reviewed by the State Director. (43 CFR 3165.) The BLM may not make decisions that are arbitrary or capricious. Parties that are adversely affected by BLM decisions may challenge them. If the State Director (in the case of State Director review), the IBLA, or a court with jurisdiction holds that a BLM decision was arbitrary or capricious, the BLM decision would be reversed or remanded.</p>	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b>	

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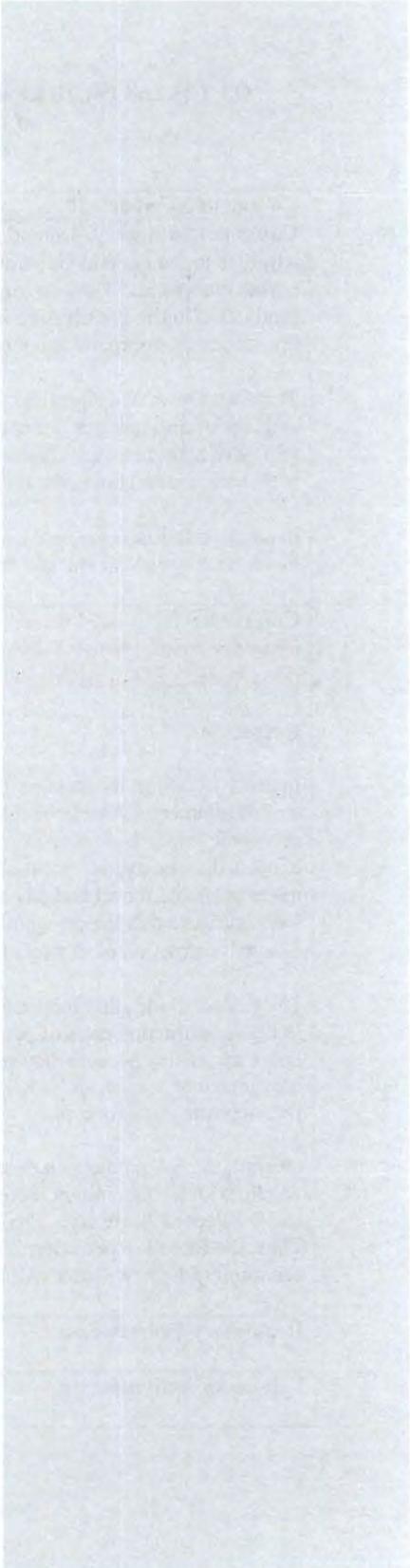
**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 29</b>	<b>Inconsistent with Previous Policy</b>
<p><b>Comment Summary:</b> The draft Order completely rewrites years of work and decisions from the BLM and through the courts. The draft Order must continue in the context of the documents which preceded its publication. Even items of consensus that were listed by the JITC from the 1986 Order have been ignored.</p> <p>Yates and other commenters would like to preserve the enclave policy from the 1986 Order.</p>	
<p><b>Commenter(s):</b> <del>HEYCO, IPANM, Yates, Fasken, Featherstone, EOG, Mewbourne, Hanson, Eddy County, EOG, Fasken, Featherstone, Hanson, HEYCO, IPANM, Mewbourne, Yates</del></p>	
<p><b>Response:</b></p> <p>The revised Order retains many of the provisions of the 1986 Order, including the stipulations for oil and gas and potash leases. The long history of contentious litigation related to the 1986 Order, along with the advent of new technology that makes possible new approaches to the concurrent development of potash and oil and gas in the DPA, led to the agency's determination that it was in the public interest to revise the 1986 Order.</p> <p>The BLM gave careful consideration to the consensus items received from JITC and incorporated them as appropriate in the revised Order. The BLM also carefully considered comments it received requesting changes to the proposed Order that some commenters believed were more consistent with the consensus items, and made several revisions to the Order in response to those comments.</p> <p>The enclave policy in the 1986 Order generally limited drilling in areas of measured potash reserves to Barren Areas or Drilling Islands. Because the revised Order expands the Development Area/Drilling Island concept throughout the DPA, there is no need to single out areas of measured reserves (enclaves). The Department believes that the new Order will lead to orderly development of oil, gas, and potash, as well as additional resource recovery.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

Comment Number: 30	Economic Impacts
<p><b>Comment Summary:</b> Oil and gas companies in the Potash Area pay substantially higher royalties to the Federal Government, State of New Mexico, and Lea and Eddy Counties than potash companies. Furthermore, the total amount of royalties paid from <i>current</i> oil and gas production in the Potash Area is but a small percentage of what would be paid if concurrent operations were expanded consistently with science.</p> <p>The draft Order will significantly affect the ability of oil and gas producers to explore for, drill and produce oil and gas resources from the Potash Area and such decrease in oil and gas activity will give a dramatic adverse economic effect to Chaves, Eddy and Lea Counties, the State of New Mexico, and the Federal Government.</p> <p>In addition to lost revenues, Yates and others commented that the draft Order would also result in undue waste of oil and gas resources.</p>	
<p><b>Commenter(s):</b> <del>HEYCO, IPANM, Yates, Fasken, EOG, Manzano, Eddy, Hanson, Mewbourne, Lea, McClellan, Manzano, Featherstone, PBPA</del>Eddy County, EOG, Fasken, Featherstone, Hanson, HEYCO, IPANM, Lea County, Manzano, McClellan, Mewbourne, PBPA, Yates</p>	
<p><b>Response:</b></p> <p>In order to inform its decision-making process in revising the Secretarial Order, BLM prepared an Environmental Assessment (EA) that includes socioeconomic analysis sections addressing the economic importance of mineral development in the DPA. As stated in the EA, the BLM expects that the overall result of the new Order will be that more areas within the DPA will be made available for oil and gas extraction while protecting potash reserves and open mine workings, and that the designation of Development Areas and Drilling Islands will result in more efficient extraction of extract oil and gas resources.</p> <p>The EA concludes that increased use of horizontal drilling and hydraulic fracturing should result in higher extraction rates of petroleum resources. BLM expects that some leases that are currently under suspension because they are located within areas of known potash reserves (enclaves) may be brought out of suspension and developed using current technologies and implementation of the Development Area concept.</p> <p>Overall, the EA predicts an overall increase in economic benefits to the oil and gas industry as a whole, with a concomitant increase in subsequent royalty payments to the state of New Mexico and the Federal Treasury. The BLM also expects that potash production will remain stable. Thus, the BLM's expectation is that, far from having detrimental effects on the local or state economies, the new Order will actually result in an increase in revenue.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*



**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 31</b>	<b>Coordination with Local Governments</b>
<b>Comment Summary:</b> The Secretary and/or BLM are required to coordinate with local governments impacted by the proposed rule. FLPMA requires land use planning, including the draft Order, to be coordinated with State and local governments. The draft Order was published without coordination with the State of New Mexico, Chaves, Eddy and/or Lea Counties.	
<b>Commenter(s):</b> <del>Lea County, Chaves County, Eddy County, Coll Brothers, Lynx Chavez County, Coll Brothers, Eddy County, Lea County, Lynx</del>	
<b>Response:</b>  The BLM disagrees with the commenters' assertions. The draft Order is a modification to the Secretary's 1986 Order, and does not constitute a rulemaking. The Department made the draft Order available to the public, with a 45-day public comment period, to provide all interested entities with the opportunity to comment. The BLM received comments from Eddy, Lea, and Chaves Counties and from a New Mexico state representative, among others. See Response to Comment 13.  The DPA is located in Eddy and Lea Counties. The BLM met at separate times with representatives of Lea County and Eddy County. Both of those meetings also included members of the New Mexico State legislature whose districts include those counties. The BLM also met separately with additional members of the New Mexico State legislature whose districts include Eddy, Lea, and Chaves Counties.  The BLM will incorporate the substance of the revised Order in the Carlsbad RMP, scheduled to be completed in 2014.	
<b>Regulatory Framework:</b> FLPMA	
<b>Follow-up Activities:</b>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 32</b>	<b>Adopt JITC Consensus</b>
<b>Comment Summary:</b> The DOI/BLM should adopt the JITC recommendations verbatim.	
<b>Commenter(s):</b> <del>Lea County, Chaves County, PBPA, Coll Brothers</del> <del>Chavez County, Coll Brothers, Lea County, PBPA</del>	
<b>Response:</b>  The BLM has the responsibility for the content of any revised Order. As such, the BLM must consider a wide variety of factors in land management decisions, including industry interest, conservation values, and protection of the environment, as well as other potential uses of the public lands. The BLM carefully considered the comments that the JITC submitted regarding the proposed Order and incorporated them as appropriate in the revised Order. The JITC comments were not incorporated word for word, but the revised Order reflects most of the concepts identified by the JITC.	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 33	<b>Prior Commitment Made by DOI</b>
<p><b>Comment Summary:</b> In 2009, a group of ten oil and gas stakeholders accompanied Representative Teague to a meeting with Deputy Assistant Secretary <u>Ned Farquhar (sp)</u>. Mr. Farquhar (sp) gave the group the following assurances:</p> <ul style="list-style-type: none"> <li>- No rule change will be made by the Secretary before the scientific studies now under way are completed and finalized after peer review.</li> <li>- Any change in policy will be based on defensible and validated science, including gas migration and subsidence studies conducted for the WIPP.</li> <li>- That all stakeholders, including the State of NM, be given a fair and complete opportunity to be involved in any consideration of a change of rules.</li> <li>- And, finally, that until that all occurs, the Secretary will allow the BLM to continue to manage the Secretarial Potash Area under the 1986 Order, and continue to allow the concurrent development and permitting of both potash and oil and gas development.</li> </ul>	
<p><b>Commenter(s):</b> EOG, Hanson, Eddy County, McClellan, Manzano <u>Eddy County, EOG, Hanson, Manzano, McClellan</u></p>	
<p><b>Response:</b></p> <p>The studies that were under way in 2009, which were funded by the BLM and conducted by Sandia National Laboratories, have been completed. The BLM agrees that the Order should incorporate all available science and Section 7.d. of the revised Order provides for that. That section states that the BLM will obtain and use the best science available when administering the Order and will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. It further provides that the BLM may continue to use Sandia National Laboratories to provide unbiased technical assistance in administering the DPA. Sandia National Laboratories continues to conduct studies related to concurrent development of potash and oil and gas, and many are expected to continue for a number of years. When appropriate, the BLM will adjust its administration of the DPA as new science becomes available.</p> <p>See Comment Response for Nos. 13 and 31 regarding stakeholder participation.</p> <p>The BLM also notes that the commenters' summary of Mr. Farquhar's statements is not correct.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 34</b>	<b>Biased Technology Requirements</b>
<p><b>Comment Summary:</b> The requirements and expectations of the oil and gas industry to utilize the most up to date technology and techniques in developing oil and gas, and not to require any advancement in the potash industry's technology is completely biased. The Order needs to address this issue and mandate a technological requirement on other mining interests as well. If the companies use new technologies in mining it could lead to more of the oil and gas resources being protected and available for development, benefitting both the state and federal governments with the additional production and resulting royalties.</p>	
<p><b>Commenter(s):</b> Strata</p>	
<p><b>Response:</b></p> <p>The BLM disagrees that the revised Order is biased. The revised Order applies concepts based on technological advances that have already been achieved in oil and gas drilling. The BLM intends to encourage the use of new technology in potash development as well as oil and gas development. For example, the BLM recently approved the first solution mine for potash in the Carlsbad area.</p> <p>Section 7.d. of the revised Order requires the BLM to obtain and use the best science available when administering the Order:</p> <p style="padding-left: 40px;">The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.</p> <p>When appropriate, the BLM will incorporate additional advances in science and technology into its administration of the revised Order. BLM intends to issue guidance through Instruction Memoranda, Information Bulletins, Notices to Lessees, and other means as necessary.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 35	<b>JITC not Representative</b>
<b>Comment Summary:</b> The JITC is not representative of the oil and gas industry.	
<b>Commenter(s):</b> <a href="#">Fasken</a> , Strata	
<b>Response:</b>  <p>The BLM realizes that the JITC does not represent all oil and gas companies that might have interests in the DPA. The BLM sought input from all interested parties and the general public, including oil and gas companies not represented by the JITC, through the Notice of Availability of the proposed Order published in the Federal Register on July 13, 2012. Thus, the agency has had the benefit of a wide range of views.</p> <p>The BLM notes that the oil and gas companies that are members of the JITC include large, medium, and small companies that are responsible for the majority of production and operations within the DPA. Members of the JITC represent over 72% of the oil production and 94% of the gas production in the DPA. The BLM also notes that the oil and gas companies that are not members of the JITC that submitted comments critical of the proposed Order produce 1% and 2% of the oil and gas, respectively, in the DPA.</p>	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b> None	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 36</b>	<b>Designation of Single Operator</b>
<p><b>Comment Summary:</b> The proposed Order requires forced unitization with designation of a single operator for each development area (Section 6.e.2.b.ii). This means that small independent companies do not have the opportunity to take over the operatorship of certain horizons and develop what the larger companies have no desire to. The proposed Order does not consider units with existing sub-operators in the Potash Area and how well they are cooperating. (Strata recounts its successful history working as a sub-operator with Chevron as the unit operator, stating that the success would not have been possible under the proposed Order.)</p>	
<p><b>Commenter(s):</b> Strata</p>	
<p><b>Response:</b></p> <p>Since 1951, it has been the Department's policy to require unitization within the DPA. Unit Operators may propose, and the BLM may consider, requests for designations of sub-operators for portions of unit agreements or specific horizons. The revised Order does not preclude approval of sub-operators, nor require termination of currently approved sub-operators.</p> <p>Some horizons may be best developed via vertical wells rather than using horizontal drilling technology. The revised Order does not preclude drilling of vertical wells by smaller operators when appropriate. These vertical wells may be co-located within a Drilling Island or may be located within a Barren Area.</p> <p>Of the total Federal acreage within the DPA, 45% is currently within a Federal unit. Pursuant to the Mineral Leasing Act, the oil and gas leases include a term that requires the lessee to subscribe to a unit plan that the Secretary deems necessary for proper development and operation of an area, field, or pool. See 30 U.S.C. 226(m); BLM Oil and Gas Lease Form 3100-11, Sec. 4. The revised Order does not add to the BLM's existing authority to require unitization when and where it is appropriate.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number:</b> 37	<b>Cost of Exploratory Work</b>
<p><b>Comment Summary:</b> The proposed Order places a new costly burden on oil and gas companies to take steps to discover whether or not there is recoverable potash located in areas of oil and gas interest (Section 6.e.(6)). In fact, that burden should be placed on the federal government or the potash industry that will benefit directly from any information that oil and gas companies find regarding resources in these currently "unknown" potash resource areas.</p>	
<p><b>Commenter(s):</b> Strata</p>	
<p><b>Response:</b></p> <p>Core drilling to determine if an area is barren is optional and can be conducted by either industry. One of the reasons for the concept of Development Areas with Drilling Islands was to provide an alternative to this process. When a Development Area is designated, a Drilling Island will be established from which the oil and gas resources can be developed while minimizing the impacts to potash resources. When drilling from a Drilling Island, there is no need for an oil and gas company to make any determination regarding the existence of potash resources. If a company wishes to drill somewhere other than a Drilling Island then it may elect to drill core holes to determine whether potash mineralization is present.</p> <p>The policy is not intended to be restrictive or burdensome, but rather to provide an additional option to oil and gas lessees.</p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 38</b>	<b>Shared Drilling Island</b>
<p><b>Comment Summary:</b> The creation and location of a Development Area and Drilling Island should be a cooperative decision among companies. As is the current policy, all companies within a Development Area should be allowed to operate their own acreage from a mutually agreeable shared surface location if they choose not to enter into a Unit Agreement.</p>	
<p><b>Commenter(s):</b> Strata</p>	
<p><b>Response:</b></p> <p>Since 1951, the Secretary's (b) (5) order has required the BLM to place stipulations requiring unitization on all oil and gas leases issued in the DPA. The 1986 Order did not distinguish between vertical and directional or horizontal wells. In fact, the BLM commonly expanded Drilling Islands where only vertical drilling was proposed.</p> <p>The intent of the revised Order is to enable the maximum technically feasible development of the oil and gas resources while managing any adverse effects on the future mineability of the potash resource. Current horizontal drilling technology has enabled operators the opportunity to develop oil and gas reserves from beneath areas of measured potash reserves (enclaves) while minimizing impacts to potash resources. While these horizontal well APDs are proposed well-by-well, the Development Area concept would allow coordinated development of multiple wells from a central surface location.</p> <p>Smaller lessees would be able to participate in the drilling program in a Development Area, whether through a communitization or unit agreement, proportionally to their acreage in the Development Area. We agree with the commenter that the identification and location of a Development Area should be a cooperative decision among the operators in the context of managing the impact to potash resources while providing for access to the lease oil and gas. Note that the BLM cannot unilaterally require unitization in Development Areas that contain private or state minerals. Similarly, the NMOCD does not have the authority to require communitization of Federal minerals. Thus, unitization or pooling is best done through cooperation of the mineral lessees.</p> <p>An added benefit of a communitization or unit agreement is consolidation of surface access and infrastructure so as to reduce the footprint of the overall operations. Individual well development by operators would require multiple facilities and access, which might result in greater costs, and possibly delays in obtaining approval for surface impacts.</p> <p><u>There could be circumstances where there is no advantage to unitization, but there are benefits from using one Drilling Island to access more than one lease. The Order does not prevent the BLM for authorizing such a situation. However, it is anticipated that unitization of Development Areas the most common approach to oil and gas lease development within the DPA.</u></p>	
<p><b>Regulatory Framework:</b></p>	

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**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico**  
*Comments on Proposed Secretarial Order*

**Follow-up Activities:**

**Oil, Gas and Potash Leasing and Development Within the Designated Potash Area  
of Eddy and Lea Counties, New Mexico  
Comments on Proposed Secretarial Order**

<b>Comment Number: 39</b>	<b>Definition of Barren Areas</b>
<b>Comment Summary:</b> The BLM is not qualified to establish Barren Areas.	
<b>Commenter(s):</b> Mack Energy	
<b>Response:</b>  The BLM disagrees with the commenter. It is the BLM's responsibility under the Mineral Leasing Act and FLPMA, as well as potash and oil and gas regulations, to manage the Federally-owned potash and oil and gas resources in the DPA. This responsibility within the DPA clearly includes the establishment of Barren Areas. The BLM will use concrete, objective data to determine whether or not an area is barren of potash ore. The BLM is committed to using the best science available and maintaining the highest standards in making this determination with such information and pursuant to the legal authorities cited. The BLM is well-qualified to make decisions with respect to Barren Areas and other matters under the revised Order.	
<b>Regulatory Framework:</b>	
<b>Follow-up Activities:</b>	





**Page 2: [1] Comment [b10]**                      **barbara.fugate**                      **10/17/2012 5:20:00 PM**

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**Page 2: [2] Comment [b12]**                      **barbara.fugate**                      **10/17/2012 5:20:00 PM**

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**Page 7: [3] Comment [ksh24]**                      **Karen Hawbecker**                      **10/22/2012 3:47:00 PM**

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**Page 7: [4] Comment [p25]**                      **pallard**                      **11/1/2012 12:39:00 PM**

(b) (5)

**Page 7: [5] Comment [b28]**                      **barbara.fugate**                      **10/17/2012 5:20:00 PM**

(b) (5)

**Page 7: [6] Comment [b29]**                      **barbara.fugate**                      **10/17/2012 5:20:00 PM**

(b) (5)

ORDER NO.

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior, dated, October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

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Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

a. **Authorized Officer** - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.

b. **Barren Area** - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

c. **Buffer Zone** - Areas established by the BLM within the Designated Potash Area

(1) extending outward a certain distance from the perimeter of existing underground open mine workings within which oil or gas operations are generally not allowed due to a BLM determination that oil or gas drilling could constitute a hazard to or interfere with orderly potash mining operations, or

(2) extending outward a certain distance from operating oil or gas well(s) or established Drilling Islands within which potash operations are generally not allowed due to a BLM determination that potash mining or exploration operations could constitute a hazard to or interfere with orderly oil or gas operations.

d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. ~~Co-development may require that the development of the resources occur at different times and from different places.~~

(b) (5)

e. Designated Potash Area - The land area described at Section 8 of this Order.

f. Development Area - An area established by the BLM within the Designated Potash Area in consideration of appropriate oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while ~~limiting~~ the impact on potash resources. Each Development Area will typically have only one Drilling Island, subject to narrow exceptions based on specific facts and circumstances. All new oil and gas wells that penetrate the potash formations within a Development Area will be drilled from the Drilling Island(s) associated with that Development Area. The boundaries of each Development Area will be determined in conformity with Section 6.e.(2).

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h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.

i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.

j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.

k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.

l. Potash - Potassium and associated minerals as specified in the Act of February 27,

1927 (30 U.S.C. §§ 281-287).

m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

Sec. 5 **Status of Lands.** This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

Sec. 6 **General Provisions.**

a. Issuance of Oil and Gas Leases. The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

(1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.

(2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.

(3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.

(4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

(b.) Reinstatement or Renewal of Oil and Gas Leases. As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

(c.) Potash Leases.

(1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil and gas lease issued for the same lands.

(2) BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.

(3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

(4) In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas. Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

(1) The areas where active mining operations are currently in progress in one or more ore zones;

(2) The areas where operations have been completed in one or more ore zones;

(3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;

(4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;

(5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;

(6) Those areas that are considered to be Barren Areas;

(7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a three year mine plan.

(9) The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. (b) (5)

The Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information. (b) (5)

e. Oil and Gas Drilling.

(1) Drilling within the Designated Potash Area. It is the intent of the Department of the Interior to administer oil and gas operations throughout the Designated Potash Area in a manner which promotes safe, orderly co-development of oil and gas and potash resources. It is the policy of the Department of the Interior to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area. Three exceptions to this policy will be permitted if the drilling will occur under the following conditions from:

(a) a Drilling Island associated with a Development Area established under this Order or (b) (5) prior Order;

(b) a Barren Area and the Authorized Officer determines that such operations will not adversely affect active or planned potash mining operations in the immediate vicinity of the proposed drill-site; or

(b) (5)

(b) (5)

(2) Development Areas.

(a) When processing an application for permit to drill (APD) an oil or gas well in the Designated Potash Area that complies with regulatory requirements, the Authorized Officer will determine whether to establish a Development Area in connection with the application, and if so, will determine the boundaries of the Development Area and the location within the Development Area of one or more Drilling Islands from which drilling will be permitted. The BLM may also designate a Development Area outside of the APD process based on information in its possession, and may modify the boundaries of a Development Area. Existing wells may be included within the boundaries of a Development Area. A Development Area may include Federal oil and gas leases and other Federal and non-Federal lands.

(b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part

3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will:

(i) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and

(ii) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

(c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.

(d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

(i) The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while ~~limiting~~ (b) (5) the impact on potash resources;

(b) (5)

(ii) The application of available oil and gas drilling and production technology in the Permian Basin;

(iii) The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;

(iv) Any long term exploration and/or mining plans provided by the potash industry;

(v) Whether a Barren Area may be the most appropriate area for a Drilling Island;

(vi) The requirements of this Order; and

(vii) Any other relevant factors.

(e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations.

Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

(f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.

(g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones. Buffer Zones of  $\frac{1}{4}$  mile for oil wells and  $\frac{1}{2}$  mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(4) Unitization and Communitization. To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

(a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.

(b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. ~~In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location~~

of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.

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(c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

(a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.

(b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.

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(8) Access to Maps and Surveys.

(a) Well records and survey plats that an oil and gas lessee is required to file

pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(b) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

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(d) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. Maps of Development Areas will be provided in a timely fashion by the BLM upon request.

#### Sec. 7 Regulatory and Administrative Matters.

(a.) This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.

(b.) Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.

(c.) In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including rulemaking, notices to lessees, and orders of the Authorized Officer.

(d.) The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased

technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.

(e.) The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.

(f.) The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

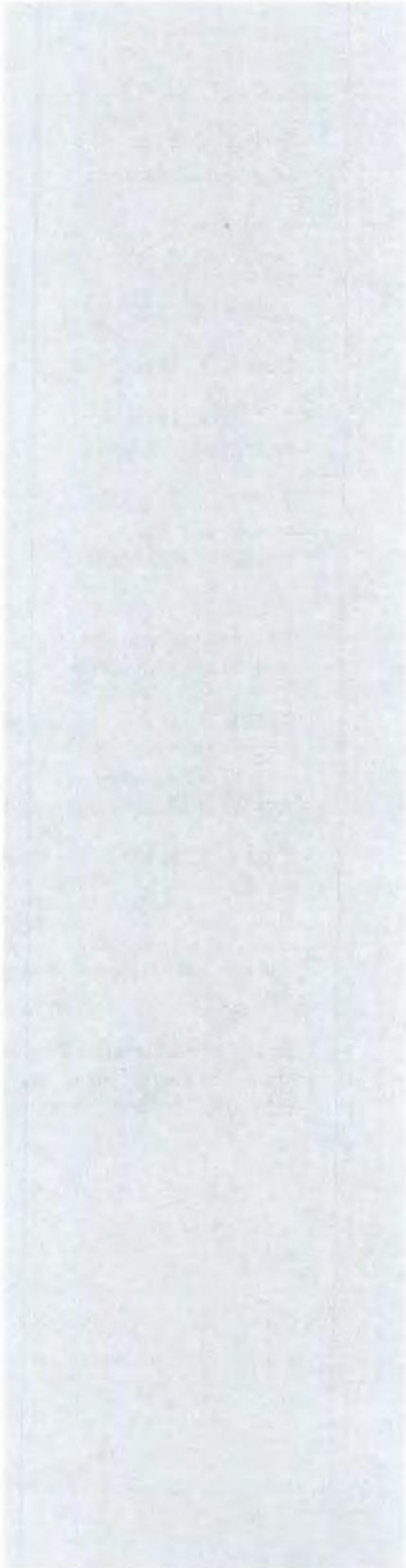
T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,  
secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

DRAFT



T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

**Sec. 9 Administrative Provisions.** The Director, BLM, -is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Secretary of the Interior

Date:

**From:** [Allard, Phil](#)  
**To:** [Pollet, Jolie](#); [Barian, Bryce](#)  
**Subject:** FW: Briefing materials for Departmental Briefing on Potash-OG draft Secretarial Order (VTC w/NM) Bridge#(b) (5)  
(b) (5) code (b) (5)  
**Date:** Monday, July 02, 2012 11:08:21 AM  
**Attachments:** [Potash-OG.doc \(schedule, 6-28-12\).docx](#)  
[Potash - O&G NOA.doc \(surname version, 6-29-12\).docx](#)  
[Potash - Oil and Gas brf \(Briefing paper, with surname package, 6-29-12\).docx](#)  
[Potash-O&G Secretarial Order, \(surname version, 2012 6 27\).doc](#)

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**From:** Lin, Janet H  
**Sent:** Friday, June 29, 2012 5:10 PM  
**To:** Hayes, David; Lee-Ashley, Matt; Davis, Laura; Marsters, Lizzie; Farquhar, Ned; Burke, Marcilynn; Cardinale, Richard; Klein, Elizabeth A; Belin, Letty; Allard, Phil; Stovall, James K; Herrell, Tony J; Haugrud, Jack; Fugate, Barbara; Hawbecker, Karen; Umshler, Sue; Vogt, Vincent N; Kornze, Neil G; Pool, Michael J; Nedd, Michael D; Spisak, Timothy; Juen, Jesse J; Fetcher, Adam K; Kelly, Kate P  
**Cc:** Rees, Gareth C.; Cousins, Debbie; Sisk, Jennifer R; Lassiter, Tracie L; Ellenburg, Diane M; Luckey, Lauren; Watkins, Deborah; Brown, Bernadette D; Walker, Claudia B; Harris, Maritiza T; Boddington, Celia; Black, Steve; Iudicello, Fay; Lawyer, Mark; Sheikh, Usman; OSUA8; Long, Susan; Smith, Erica C; Dash, Robert C; MacDonell, George H; dailybriefingbinder; Lane, Kenneth  
**Subject:** Briefing materials for Departmental Briefing on Potash-OG draft Secretarial Order (VTC w/NM) Bridge#(b) (5) code (b) (5)

-----Original Appointment-----

**From:** Walker, Claudia B **On Behalf Of** Lin, Janet H  
**Sent:** Tuesday, June 26, 2012 10:57 AM  
**To:** Lin, Janet H; Hayes, David; Lee-Ashley, Matt; Davis, Laura; Marsters, Lizzie; Farquhar, Ned; Burke, Marcilynn; Cardinale, Richard; Klein, Elizabeth A; Belin, Letty; Allard, Phil; Stovall, James K; Herrell, Tony J; Haugrud, Jack; Fugate, Barbara; Hawbecker, Karen; Umshler, Sue; Vogt, Vincent N; Kornze, Neil G; Pool, Michael J; Nedd, Michael D; Spisak, Timothy; Juen, Jesse J; Fetcher, Adam K; Kelly, Kate P  
**Cc:** Rees, Gareth C.; Cousins, Debbie; Sisk, Jennifer R; Lassiter, Tracie L; Ellenburg, Diane M; Luckey, Lauren; Watkins, Deborah; Brown, Bernadette D; Walker, Claudia B; Harris, Maritiza T; Boddington, Celia; Black, Steve; Iudicello, Fay; Lawyer, Mark; Sheikh, Usman; OSUA8; Long, Susan; Smith, Erica C; Dash, Robert C; MacDonell, George H  
**Subject:** Departmental Briefing on Potash-OG draft Secretarial Order (VTC w/NM) Bridge#(b) (5)  
(b) (5) code (b) (5)  
**When:** Monday, July 02, 2012 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** BLM\_WO\_MIB\_RM5071\_Conference\_Room

**From:** [Farquhar, Ned](#)  
**To:** [Barlan, Bryce](#)  
**Cc:** [Cardinale, Richard](#)  
**Subject:** RE: Difference between old Order and new Order on Unitization  
**Date:** Monday, October 01, 2012 2:57:15 PM

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Excellent summary! Thanks, Bryce. NF

-----Original Message-----

From: Barlan, Bryce  
Sent: Monday, October 01, 2012 10:25 AM  
To: Farquhar, Ned  
Subject: Difference between old Order and new Order on Unitization

Hey Ned,

(b) (5)

I can explain the difference between the two when you get in.

That's my read of it.

I'll close the loop with Phil to see what he has to say.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Cunningham, Celina P](#)  
**Subject:** FW: Difference between old Order and new Order on Unitization  
**Date:** Monday, October 01, 2012 11:36:00 AM

---

FYI - Per our discussion earlier.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Barlan, Bryce  
Sent: Monday, October 01, 2012 10:25 AM  
To: Farquhar, Ned  
Subject: Difference between old Order and new Order on Unitization

Hey Ned,

(b) (5)

That's my read of it.

I'll close the loop with Phil to see what he has to say.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Walker, Claudia B](#) on behalf of [Pool, Michael J](#)  
**To:** [BLM\\_WO\\_Everyone](#)  
**Subject:** Director's Awards Ceremony: Oct 25th - 2:00pm - M Street - Room 4017  
**Date:** Monday, October 22, 2012 11:04:35 AM

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Please join me for the third annual BLM Director's Awards, recognizing BLM employees for their individual and team accomplishments in leadership, innovation, and extraordinary public service. This year's winners exemplify the very best about our agency and are individuals who readily go above and beyond the call of duty each day. I encourage all of you to attend the event if on **Thursday, October 25 at 2:00 pm in Room 4017 in the High Desert Conference Room at 20**. Following the ceremony, everyone is invited for light refreshments and to meet the award winners.

Awards will be given in seven different categories:

- The Director's Award for Excellence through Leadership Internal is awarded to Tony Herrell (BLM-New Mexico)
- The Director's Award for Excellence through Leadership External is awarded to the Potash, Oil and Gas Joint Industry Technical Committee (JITC).
- The Director's Award for Excellence through Stewardship is awarded to the Idaho Falls Phosphate Minerals Branch with oversight from the District Manager Joe Kraayenbrink.
- The Director's Award for Team Accomplishment is awarded to the BLM-Montana Pryor Mountain Horse Gather and Adoption Team.
- The winner of The Director's Award for Spirit of Service is awarded to Gretchen Hurley (BLM-Wyoming, Cody Field Office)
- The Director's Award for Diversity is awarded to Mark Sant and Sara Romero-Minkoff (BLM-Montana).
- The Director's Award for Safety is awarded to BLM-Oregon, Eugene District Office.

The Bureau's employees are our greatest resource so please mark your calendars and join me in honoring our colleagues on Thursday, October 25<sup>th</sup> at 2:00 pm. Thank you.

**From:** [Farquhar, Ned](#)  
**To:** [Burke, Marcilynn](#); [Pollet, Jolie](#); [Barjan, Bryce](#)  
**Subject:** FW: DRAFT DOCUMENTS FOR THE BLM Briefing on Potash-OG Draft Secretarial Order Mtg/VTC and [Bridge# (b) (5) code (b) (5)]  
**Date:** Thursday, June 28, 2012 3:52:58 PM  
**Attachments:** [Potash-OG.doc \(schedule, 6-28-12\).docx](#)  
[Potash - O&G NOA.doc \(surname version, 6-28-12\).docx](#)  
[Potash-O&G Secretarial Order, \(surname version, 2012 6 27\).doc](#)  
[Potash - Oil and Gas brf \(Briefing paper, with surname package, 6-28-12\).docx](#)  
[Potash - OG NOA doc \(surname version 6-28-12\) nf.docx](#)

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Some quick comments on the NOA.

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

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**From:** Lin, Janet H  
**Sent:** Thursday, June 28, 2012 3:33 PM  
**To:** Kornze, Neil G; Pool, Michael J; Allard, Phil; Stovall, James K; Herrell, Tony J; Cranston, Craig C; Spielman, Jay R; MacDonell, George H; Haugrud, Jack; Blank, Harvey; Fugate, Barbara; Hawbecker, Karen; Umshler, Sue; Nedd, Michael D; Spisak, Timothy; Vogt, Vincent N; Juen, Jesse J; Farquhar, Ned; Cardinale, Richard  
**Cc:** Boddington, Celia; Leff, Craig S; Luckey, Lauren; Walker, Claudia B; Harris, Maritiza T; Ellenburg, Diane M; Sheikh, Usman; Smith, Erica C  
**Subject:** DRAFT DOCUMENTS FOR THE BLM Briefing on Potash-OG Draft Secretarial Order Mtg/VTC and [Bridge# (b) (5) code (b) (5)]

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Janet Lin  
Chief of Staff  
Bureau of Land Management  
U.S. Department of the Interior  
202-208-3801 (o)  
202-341-9419 (c)

6/28/12

## Potash/O&G Draft Secretarial Order Schedule

- June 27 Surname package begins circulation - Notice of Availability and Draft SO
- June 28 BLM – Director Briefing
- June 29  
Or July 2 Departmental Briefing
- July 3 Finalize documents
- July 6 Send documents to the Federal Register
- July 12 Rollout/Announcement  
Distribution of Draft SO to Tribes  
NOA available at the Federal Register inspection desk
- July 13 (whichever is the day after the announcement) Publication of NOA of  
Draft SO, 30 day comment period begins
- Tribal Consultation Meetings
- |         |                          |
|---------|--------------------------|
| July 17 | Kiowa Tribe of Oklahoma  |
| July 18 | Comanche Indian Tribe    |
| July 19 | Apache Tribe of Oklahoma |
| July 20 | Mescalero Apache         |
| July 24 | Ysleta del Sur Pueblo    |
| July 25 | Pueblo of Isleta         |
| July 26 | Hopi Tribe               |
- August 12 Comment period closes
- October 20 Publish final Secretarial Order in Federal Register and make  
Environmental Assessment available on BLM website

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLNM910000 L13100000.EJ0000]**

**Notice of Availability of the Draft Order of the Secretary on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** Under the authority of the Mineral Leasing Act, as amended, the Bureau of Land Management (BLM) has prepared a draft Order of the Secretary of the Interior (draft Secretary's Order) to address oil, gas, and potash leasing and development within the Designated Potash Area in Eddy and Lea counties in New Mexico. The draft Secretary's Order would supersede the current Secretary's Order that addresses those issues. By this notice, BLM announces the opening of a 30-day public comment period regarding the draft Secretary's Order. The revised guidelines in the draft Secretary's Order are designed to further promote the efficient development of potash, oil, and gas resources, while minimizing conflict between the industries and ensuring the safety of operations. By further utilizing a drilling island concept for oil and gas development that was first introduced in the current Secretary's Order, less impact to the environment is expected to occur because of the resulting reduction in the number of drill pads and their associated roads, power lines, and other ancillary facilities required to develop the oil and gas resource. The safety of the underground potash miners would also be enhanced by a reduction in the number and spacing of oil and gas drilling locations where wells penetrate the potash formation.

**DATES:** To ensure that comments will be considered, the Bureau of Land Management (BLM) must receive written comments on the draft Secretary's Order within 30 days following the date this Notice of Availability is published in the Federal Register.

**ADDRESSES:** You may submit comments related to the draft Secretary's Order by any of the following methods:

- E-mail: [therrell@blm.gov](mailto:therrell@blm.gov);
- Fax: 505-954-2115-; or
- Mail: Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail  
Santa Fe, NM 87508.

The draft Secretary's Order is available at the following website:

<http://www.blm.gov/NM/SecretaryPotashOrder/html> [REPLACE WITH REAL INTERNET ADDRESS]

**FOR FURTHER INFORMATION CONTACT:** Tony Herrell, Deputy State Director, Mineral Resources; telephone 505-954-2222; address 301 Dinosaur Trail,

Santa Fe, NM 87508; e-mail: [therrell@blm.gov](mailto:therrell@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** An area near the town of Carlsbad in southeastern New Mexico has large deposits of potash, oil, and gas. Oil and gas have been produced from this area since the early twentieth century. Potash (potassium bearing salts primarily used for fertilizer) was discovered in this area in 1925 and has been mined since 1930.

A Secretarial Potash Order was first issued by the Department of the Interior (Department) in 1939 (4 FR 1012, February 25, 1939). That Order withdrew 43,000 acres of public land from oil and gas leasing in order to protect potash deposits. The Order was amended in 1951 (16 FR 10699, October 18, 1951) to allow for multiple mineral development in a larger area and established special lease terms for use in both potash leases and oil and gas leases. Such lease terms were designed to facilitate the protection of mineral resources and the safety of miners. The Order was also amended in 1965 (30 FR 6692, May 15, 1965), 1975 (40 FR 51486, November 5, 1975), and 1986 (51 FR 39425, October 28, 1986). A correction to the 1986 Order was issued in 1987 (52 FR 32171, August 26, 1987). The potash area designated by the Order now comprises approximately 497,000 acres of both public and non-public lands. While the Secretary's authority does not extend to the non-public lands in the area, the current Order and this draft Order include non-public lands within the exterior boundaries of the Designated Potash Area as a matter of convenience.

The potash deposits in this area occur from 800 to over 2,000 feet beneath the surface and are mined by conventional and solution mining methods; conventional methods require miners to be underground. The oil and gas in the area is found in formations below the potash bearing formations, so oil and gas wells must extend through potash formations. If potash mining breached a well casing, or if a well casing near a potash mine failed for other reasons, gas could enter the mine workings, thus endangering the miners. Additionally, the potential for such a breach raises the costs of potash mining due to the need for enhanced ventilation techniques and specialized equipment to reduce this risk. Accordingly, given these safety risks, while potash and oil and gas are found in the same area, challenges exist to

simultaneous production. Thus, there has been a long history of conflict between the potash and the oil and gas industries.

This conflict has resulted in a great deal of litigation in this area regarding decisions made by the BLM on a variety of development applications. Nevertheless, over the past several years, the two industries have initiated efforts to work together and productive meetings and discussions have occurred among many of the parties involved in these previous disputes. Additionally, significant advances have been made in the technology of oil and gas drilling that can be used to reduce the conflict between such drilling and the extraction of potash. Further, the economic outlook of both the oil and gas industry and the potash industry has recently improved. All of these factors together have led to greater coordination between these two industries. The BLM has also worked with Sandia National Laboratories to investigate well logging technology, gas migration in the potash formations, and standards to use for estimating the mineability of potash and potash cutoff grades. These circumstances resulted in this review of the 1986 Secretary's Order.

The provisions in this draft Secretary's Order are consistent with the Department's regulations, onshore orders, and the oil and gas lease form. The Department's existing regulations and onshore orders allow the BLM to impose conditions of approval on permits to drill and require protection of other mineral resources, other natural resources, environmental quality, life, health, safety, and property. See 43 CFR subparts 3162.1, 3164.1, and 3165.1. The oil and gas lease form (BLM form 3100-11) provides that the rights granted in the lease are subject to the Secretary's subsequent formal orders when not inconsistent with the lease rights. The lease form also provides that lessees will take

reasonable measures that BLM deems necessary to minimize adverse impacts to other resources and to other land uses or users. The provisions in the draft Secretary's Order are also consistent with the regulations governing potash leasing, exploration, and development. See 43 CFR part 3500 and subpart 3190.

The draft Secretary's Order differs from the 1986 Order in several important ways. First, the formatting is modified to be consistent with the Department's style requirements for Secretary's Orders. These requirements were changed in 1992. See 012 DM 1 in the Departmental Manual.

Next, the draft Secretary's Order is built on a foundation of "co-development." This new term is used to describe concurrent development of potash and oil and gas from the Designated Potash Area through a cooperative effort between the industries under this new Secretary's Order.

Next, the draft Secretary's Order authorizes the BLM to establish "Development Areas." Development Areas are blocks of Federal oil and gas leases, to be identified by the BLM that could be developed as a unit from one or more "Drilling Islands." The draft Secretary's Order envisions that the oil and gas leases in a Development Area would be unitized under the regulations found at 43 CFR subpart 3180, and developed by a unit operator or operated under a communitization agreement as authorized under 43 CFR subpart 3105. This would lead to more orderly development of the oil and gas resources in the Development Area and minimize impacts to surface resources and potash resources.

The draft Secretary's Order also defines new terms for classifying lands with regard to their potash values. "Barren Areas" are defined as lands within the designated Potash Area where sufficient data is available to establish that the area lacks mineable potash resources.

"Unknown Areas" are areas within the Designated Potash Area where there is an absence of data to classify the potash mineralization of the lands. While Barren Areas may be preferred locations for Drilling Islands, Unknown Areas may warrant protection from oil and gas drilling until such time as data is available to properly classify the potash mineralization.

It is envisioned that the majority of the Designated Potash Area will eventually be divided into Development Areas designed to minimize the impacts to potash mining while allowing for the effective development of oil and gas resources. It is intended that Development Areas will be developed with extended reach horizontal wells using the most current technology, consistent with applicable laws and regulations.

As described in the draft Secretary's Order, wells would be drilled from a Drilling Island established within the Development Area. In most cases, a single Drilling Island would be established for each Development Area. However, when circumstances dictate, the BLM could establish additional Drilling Islands. Drilling Islands would be situated in such a manner that extended reach horizontal wells could access oil and gas within the associated Development Areas. Under the draft Secretary's Order, in areas leased for potash or containing "Measured Reserves," areas where potash is known to exist in sufficient thickness and quality to be mineable, the Development Areas would generally be larger, requiring the most aggressive use of extended-reach horizontal wells. In other areas, Development Areas could be smaller, and the use of extended-reach horizontal wells would be less.

The draft Secretary's Order retains several important features of the 1986 Order, including the boundaries of the Designated Potash Area established in the 1986 Order, as corrected in 1987. The draft Secretary's Order also retains language of the 1986 Order for special terms and conditions for oil and gas leases and potash leases issued, readjusted, or reinstated in the Designated Potash Area. The draft Secretary's Order seeks to retain the wording of the 1986 Order to the extent practicable.

Before including your phone number, email address, or other personal identifying information with the submission of your comments, you should be aware that your entire submission – including your personal identifying information – may be made publicly available at any time. While you may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

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Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

- a. Authorized Officer - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. Barren Area - An area established by BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

(b) (5)

c.

- d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.
- e. Designated Potash Area - The land area described at Section 8 of this Order.
- f. (b) (5)
  
- g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that newly penetrate the potash formations can be performed.
- h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.
- i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.
- j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.
- k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.
- l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. 281-287).
- m. Unknown Area - An area within the Designated Potash Area where there is an

absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

(1) (b) (5)

- (2) BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.
- (3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and
- (8) Those areas that are planned to be mined as per a three year mine plan.

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized

Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

e. Oil and Gas Drilling

- (1) Drilling within the Designated Potash Area.  
(b) (5)

- (2) Development Areas.  
(b) (5)  
(a)

- (b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the

Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

- (c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.
- (d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:
  - i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
  - ii. The application of available oil and gas drilling and production technology in the Permian Basin;
  - iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
  - iv. Any long term exploration and/or mining plans provided by the potash industry;
  - v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
  - vi. The requirements of this Order; and
  - vii. Any other relevant factors.
- (e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the best available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).
- (f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and

necessary.

- (g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

Buffer zones of  $\frac{1}{4}$  mile for oil wells and  $\frac{1}{2}$  mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
- (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and

gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.

(c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

(a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.

(b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the BLM at the Carlsbad Field Office. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.

(c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ, as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Potash Lessees

An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area. A list of current potash lessees and potash

operators will be available and maintained by the Carlsbad Field Office, BLM. This notice should be prior to or concurrent with the submission of the application, plan, or proposal to the BLM. The BLM will not authorize any action prior to this notice.

f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(3) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the owner of the records to the operator of the planned program subject to the data management protocols as referenced in 6.e.(6)(c). Record owners are encouraged to comply as fully as possible with this paragraph so that the best available science may be used to define Barren Areas. The BLM will use all data available to it when delineating Barren Areas, even if some of the data was not available to the operator of the core acquisition program designed to prove the Barren Area.

(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. These maps of Development Areas will be provided in a timely fashion by the BLM upon request.

**Sec. 7 Regulatory and Administrative Matters.**

- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.
- c. In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including, <sup>(b)(5)</sup> rulemaking,

- notices to lessees, and orders of the Authorized Officer.
- d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
  - e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
  - f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs, 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;

secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,

secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

**Sec. 9 Administrative Provisions.** The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Internal Review Draft

## INFORMATION MEMORANDUM

FROM: Mike Pool, Acting Director, Bureau of Land Management

CC: Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management

SUBJECT: Draft Secretarial Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

DATE: June 28, 2012

### I. INTRODUCTION

The BLM is planning to release for public comment a draft Secretarial Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico. On January 5, 2012, Secretary Salazar announced his intention to revise the Secretary's Order.

The draft Secretary's Order would supersede the current Secretary's Order that addresses these issues. The revisions are designed to further promote the efficient development of potash and oil and gas resources, while minimizing conflict between the industries and ensuring the safety of operations. Industry representatives from oil and gas as well as potash interests have been working together to broker a mutually acceptable path forward. The opportunity to finalize a Secretarial Order that has the potential support of both industries is historic – particularly in light of the long and contentious history of this issue.

Potash is a potassium bearing mineral used primarily for fertilizer. The Carlsbad Mining District has a unique geology supporting potash, oil and gas which has led to conflicts between the oil and gas and potash industries. Oil and gas is found in formations below the potash-bearing formations so oil and gas wells must extend through the potash formations. If a well casing fails, gas could enter the mine workings and endanger miners. The potential for such a breach also would raise costs as enhanced ventilation and specialized equipment would be needed to reduce risk. Thus, while oil and gas and potash are found in the same area, challenges exist to simultaneous production, which has led to conflict resulting in litigation. Numerous cases have been appealed to the IBLA and to federal court.

While there has been a long history of litigation, multiple mineral development has occurred in the past as is evidenced by the fact that a total of 4,959 wells (approximately 2,295 active oil wells, 577 active gas wells, 33 water injection wells and the balance in dry holes and abandoned oil and gas wells) are currently located within the Secretary's Potash Area. Historically, there have been seven major potash mining operations in this area with thousands of miles of underground mine workings. In addition, to date approximately 2,500 potash core holes have been drilled within the area.

### II. BACKGROUND

The Secretary's Potash Area (SPA) was established by Secretarial Order in 1939 and originally withdrew approximately 43,000 acres from oil and gas leasing and development for the express purpose of protecting potash deposits for potash mining. Exploration by several companies

continued after 1939 and the potash area was expanded by the 1951 Order. The management policy was changed to one of concurrent development by the oil and gas, and potash industries, a key difference from the 1939 Order. To achieve concurrent development, the 1951 Order, and continuing forth to the 1986 Order, provided for the correlative rights of each industry by placing protective stipulations in new leases issued for both oil and gas, and potash. The SPA covers a total area of 497,630 acres and includes 350,617 acres of BLM managed surface where co-development of oil and gas and potash occurs.

The first successful oil well in southeastern New Mexico, the Illinois Number 3, was drilled by Van S. Welch, Tom Flynn and Martin Yates in 1924. The conflicts between the potash and oil and gas industries began shortly after the discovery of potash in 1925 (ironically discovered by an oil test well drilled in the basin) and the first potash production in 1934. The first Secretarial Order was issued in 1939 (FR 39-627), which withdrew oil and gas leasing from under the described lands. The 1939 Order was revoked in 1951 and a new Order was issued (FR Doc. 51-12547). The Order provided for the concurrent operations in the prospecting for and the development and production of oil and gas and potash deposits owned by the United States. This Order was again revised in 1975 and 1986 (FR Doc. 75-29642 and FR Doc. 86-24314, respectively). The 1986 Order had numerous typographical errors which resulted in a set of corrections being issued in 1987 (FR 87- 19554).

To relieve the tension between industries and to form scientifically based decisions for management, the BLM contracted a series of studies to be conducted by a non-biased scientific organization. In July 2007, the BLM initiated a study through a contract with Sandia National Laboratories. The purpose was to look at potential gas migration from well bores toward underground potash mines. The report was completed in August 2009. Criticism of the report from both industries began shortly thereafter.

This resulted in the Joint Industry Technical Steering Committee being (JITC) formed early in 2011. The objective of the committee is to "establish how both Potash Mining and Oil and Gas Production will operate when their activities are in close proximity so as to allow safe, concurrent development of both minerals." The JITC established several recommendations which the committee felt would have a significant impact on how orderly co-development of oil and gas and potash could be managed within the SPA.

### III. POSITION of INTERESTED PARTIES

About 85% of the oil and gas production in the SPA comes from the JITC member companies. Members of the JITC from both industries have pledged their mutual cooperation in support of the recommendations recently submitted to the Secretary. Among the key concepts brought forward by the committee was a need for data adequacy (established through core hole data). They recommended due diligence stipulations for subsequent potash leasing and the sharing of potash and oil and gas drilling information among the interested parties to ensure that all parties had the same information regarding areas classified as Enclave, Indicated, Inferred, or Barren of potash ore. Additionally, the JITC recommended that Development Areas and Drilling Islands be established in order to minimize the loss of potash while enabling oil and gas production through current advances in horizontal drilling technology. Establishment of safety buffers to minimize hazards was an additional recommendation.

Briefings by members of the JITC are on-going to industry and other interested parties. However, the companies representing the remaining 15% of production interest in the SPA have either declined to participate in the JITC or may have apprehensions about or disagreements with, the consensus reached by the JITC. Some of these companies may suggest that they were left out of the process or may disagree with the recommendations and their effect upon the oil and gas and potash industries.

Briefings on the recommendations are on-going but thus far support for the effort to revise the Secretarial Order is widespread and includes New Mexico Governor Susana Martinez, staff for Senators Bingaman and Udall and Representatives Pearce. Texas Senators Hutchinson and Cornyn have also been briefed by industry and are thought to be supportive of the new direction. NM Cabinet Secretary for Energy, Minerals, and Natural Resources Tom Bemis, and NM State Land Office Commissioner Ray Powell has also been briefed on the consensus reached by both industries. In addition, state representatives from southeast NM have been contacted about the efforts of the JITC.

SURNAME VERSION – 6-28-12

4310-VC

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLNM910000 L13100000.EJ0000]**

**Notice of Availability of the Draft Order of the Secretary on Oil and Gas and Potash**

**Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

(b) (5)



SURNAME VERSION – 6-28-12

**DATES:** To ensure that comments will be considered, the Bureau of Land Management (BLM) must receive written comments on the draft Secretary's Order within 30 days following the date this Notice of Availability is published in the Federal Register.

**ADDRESSES:** You may submit comments related to the draft Secretary's Order by any of the following methods:

- E-mail: [therrell@blm.gov](mailto:therrell@blm.gov);
- Fax: 505-954-2115-; or
- Mail: Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail Santa Fe, NM 87508.

The draft Secretary's Order is available at the following website:

<http://www.blm.gov/NM/SecretaryPotashOrder/html> [REPLACE WITH REAL INTERNET ADDRESS]

**FOR FURTHER INFORMATION CONTACT:** Tony Herrell, Deputy State Director, Mineral Resources; telephone 505-954-2222; address 301 Dinosaur Trail, Santa Fe, NM 87508; e-mail: [therrell@blm.gov](mailto:therrell@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** An area near the town of Carlsbad in southeastern New Mexico has large deposits of potash, oil, and gas. Oil and gas have been produced from this area since the early twentieth century. Potash (potassium bearing salts primarily used for fertilizer) was discovered in this area in 1925 and has been mined since 1930.

A Secretarial Potash Order was first issued by the Department of the Interior (Department) in 1939 (4 FR 1012, February 25, 1939). That Order withdrew 43,000 acres of public land from oil and gas leasing in order to protect potash deposits. The Order was amended in 1951 (16 FR 10699, October 18, 1951) to allow for multiple mineral development in a larger area and established special lease terms for use in both potash leases and oil and gas leases. Such lease terms were designed to facilitate the protection of mineral resources and the safety of miners. The Order was also amended in 1965 (30 FR 6692, May 15, 1965), 1975 (40 FR 51486, November 5, 1975), and 1986 (51 FR 39425, October 28, 1986). A correction to the 1986 Order was issued in 1987 (52 FR 32171, August 26, 1987). The potash area designated by the Order now comprises approximately 497,000 acres of both public and non-public lands. While the Secretary's authority does not extend to the non-public lands in the area, the current Order and this draft Order include non-public lands within the exterior boundaries of the Designated Potash Area as a matter of convenience.

The potash deposits in this area ~~is~~ occur from 800 to <sup>(b) (5)</sup> 2,000 feet beneath the surface and are mined by conventional and solution mining methods; conventional methods require miners to be underground. The oil and gas in the area is found in formations below the potash bearing formations, so oil and gas wells must extend through potash formations. If potash mining breached a well casing, or if a well casing near a potash mine failed for other reasons, gas could enter the mine workings, thus endangering the miners. Additionally, the potential for such a breach raises the costs of potash mining due to the need for enhanced ventilation techniques and specialized equipment to reduce this risk. Accordingly, given these safety risks, while potash and oil and gas are found in the same area, challenges exist to

SURNAME VERSION – 6-28-12

simultaneous production. Thus, there has been a long history of conflict between the potash and the oil and gas industries.

This conflict has resulted in a great deal of litigation in this area regarding decisions made by the BLM on a variety of development applications. Nevertheless, over the past several years, the two industries have initiated efforts to work together and productive meetings and discussions have occurred among many of the parties involved in these previous disputes. Additionally, significant advances have been made in the technology of oil and gas drilling that can be used to reduce the conflict between such drilling and the extraction of potash.

Further, the economic outlook of both the oil and gas industry and the potash industry has recently improved. All of these factors together have led to greater coordination between these two industries. The BLM has also worked with Sandia National Laboratories to investigate well logging technology, gas migration in the potash formations, and standards to use for estimating the mineability of potash and potash cutoff grades. These circumstances resulted in this review of the 1986 Secretary's Order.

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(b) (5)

The draft Secretary's Order differs from the 1986 Order in several important ways.

First, the formatting is modified to be consistent with the Department's style requirements for Secretary's Orders. These requirements were changed in 1992. See 012 DM 1 in the Departmental Manual.

Next, the draft Secretary's Order is built on a foundation of "co-development." This new term is used to describe concurrent development of potash and oil and gas from the Designated Potash Area through a cooperative effort between the industries under this new Secretary's Order.

Next, the draft Secretary's Order authorizes the BLM to establish "Development Areas."

Development Areas are blocks of Federal oil and gas leases, to be identified by the BLM, that could be developed as a unit from one or more "Drilling Islands." The draft Secretary's

(b) (5)

Order envisions that the oil and gas leases in a Development Area would be unitized under the regulations found at 43 CFR subpart 3180, and developed by a unit operator or operated under a communitization agreement as authorized under 43 CFR subpart 3105. This would lead to more orderly development of the oil and gas resources in the Development Area and minimize impacts to surface resources and potash resources.

SURNAME VERSION – 6-28-12

The draft Secretary's Order also defines new terms for classifying lands with regard to their potash values. "Barren Areas" are defined as lands within the designated Potash Area where sufficient data is available to establish that the area lacks mineable potash resources.

"Unknown Areas" are areas within the Designated Potash Area where there is an absence of data to classify the potash mineralization of the lands. While Barren Areas may be preferred locations for Drilling Islands, Unknown Areas may warrant protection from oil and gas drilling until ~~such time as~~ data is available to properly classify the potash mineralization.

It is envisioned that the majority of the Designated Potash Area will eventually be divided into Development Areas designed to minimize the impacts to potash mining while allowing for the effective development of oil and gas resources. It is intended that Development Areas will be developed with extended reach horizontal wells using ~~the most~~ current technology, consistent with applicable laws and regulations.

As described in the draft Secretary's Order, wells would be drilled from a Drilling Island established within the Development Area. In most cases, a single Drilling Island would be established for each Development Area. However, when circumstances dictate, the BLM could establish additional Drilling Islands. Drilling Islands would be situated in such a manner that extended reach horizontal wells could access oil and gas within the associated Development Areas. Under the draft Secretary's Order, in areas leased for potash or containing "Measured Reserves," areas where potash is known to exist in sufficient thickness and quality to be mineable, the Development Areas would generally be larger, requiring the most aggressive use of extended-reach horizontal wells. In other areas, Development Areas could be smaller, and the use of extended-reach horizontal wells would be less.

SURNAME VERSION – 6-28-12

The draft Secretary's Order retains several important features of the 1986 Order, including the boundaries of the Designated Potash Area established in the 1986 Order, as corrected in 1987. The draft Secretary's Order also retains language of the 1986 Order for special terms and conditions for oil and gas leases and potash leases issued, readjusted, or reinstated in the Designated Potash Area. The draft Secretary's Order seeks to retain the wording of the 1986 Order to the extent practicable.

Before including your phone number, email address, or other personal identifying information with the submission of your comments, you should be aware that your entire submission – including your personal identifying information – may be made publicly available at any time. While you may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

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Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

**From:** [Pollet, Jolie](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** RE: email draft  
**Date:** Tuesday, June 26, 2012 5:40:19 PM

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Thank you! I will make those changes ☺

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

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**From:** Barlan, Bryce  
**Sent:** Tuesday, June 26, 2012 5:39 PM  
**To:** Pollet, Jolie  
**Subject:** Re: email draft

Looks good. Short and sweet.

I think it'd be good to mention, (b) (5)

These may be minor points, but I hope these edits serve useful to you.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Tuesday, June 26, 2012 03:27 PM  
**To:** Barlan, Bryce  
**Subject:** email draft

Bryce – I would send this email to Marcilynn, Ned and Rich. I would cc: you and Karen.

Marcilynn, Ned and Rich –

I just returned from a discussion with BLM on the potash Secretarial Order. BLM intends to have

the surnaming package to us sometime tomorrow. The Assistant Secretary briefing on the draft Order will be Friday, with a NOA publish date of July 3.

As soon as I get the electronic version of the package, I will send it out to you. Please let me know if you need additional information. Thanks!

Jolie

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)

cell phone 907-223-6930

desk phone 202-208-5348

Renewable Resources Branch Chief

BLM - Alaska State Office, Anchorage, AK

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Emailing: Potash-OG Secretarial Order (surname version 2012 6 27)\_jp\_MAB\_bb\_notes to ASLM  
**Date:** Friday, June 29, 2012 11:21:03 AM

---

Thx!

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

**From:** Pollet, Jolie  
**Sent:** Friday, June 29, 2012 09:19 AM  
**To:** Barlan, Bryce  
**Subject:** Emailing: Potash-OG Secretarial Order (surname version 2012 6 27)\_jp\_MAB\_bb\_notes to ASLM

The message is ready to be sent with the following file or link attachments:

Potash-OG Secretarial Order (surname version 2012 6 27)\_jp\_MAB\_bb\_notes to ASLM

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

- a. **Authorized Officer** - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. **Barren Area** - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

(b) (5)

(b) (5)

- d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.
- e. Designated Potash Area - The land area described at Section 8 of this Order.
- f. (b) (5)
- g. (b) (5)
- h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.
- i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.
- j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.
- k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.
- l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. 281-287).

- m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

- (1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted <sup>(b)</sup> ~~if~~, in the opinion of the Authorized Officer, will constitute a hazard to <sup>(5)</sup> ~~oil~~ and gas production, or that will unreasonably interfere with orderly development and production under any <sup>(b)</sup> ~~oil~~ and gas lease issued for the same lands.
- (2) The BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.
- (3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a ~~three-year~~ mine plan.

(b) (5)

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized Officer will commit the ~~initial~~ findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

(b) (5)

e. -Oil and Gas Drilling

(b) (5)

(b) (5)

(b) (5)

(2) Development Areas.

(b) (5)

- (b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island. (b) (5)
- (c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.
- (d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:
- i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
  - ii. The application of available oil and gas drilling and production technology in the Permian Basin;
  - iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
  - iv. Any long term exploration and/or mining plans provided by the potash industry;
  - v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
  - vi. The requirements of this Order; and
  - vii. Any other relevant factors.
- (e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the best available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional

(non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

(b) (5)

- (f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.
- (g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be ~~potentially~~ ~~potentially~~ ~~be~~ ~~potentially~~ subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

Buffer ~~zones~~ Zones of ¼ mile for oil wells and ½ mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in ~~an~~ individual cases, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(b) (5)

(4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

- (5) Coordination with the State of New Mexico.
- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
  - (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.
  - (c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.
- (6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.
- (a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.
  - (b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the ~~BLM at the~~ Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.
  - (c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ,

as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Potash Lessees

(b) (5)

(b) (5)

f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(b) (5)

(b) (5)

(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. These maps of Development Areas will be provided in a timely fashion by the BLM upon request.

b) (5)

**Sec. 7 Regulatory and Administrative Matters.**

- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.
- c. (b) (5)
- d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
- e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
- f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;

Surname Version, 6-27-12, Internal Review draft only

secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,  
secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

Surname Version, 6-27-12, Internal Review draft only

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The **BLM** Director, **Bureau of Land Management**, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Internal Review Draft

**From:** [Farquhar, Ned](#)  
**To:** [Burke, Marcilynn](#); [Cardinale, Richard](#); [Baca, Sylvia](#); [Brunson, Vatima S](#); [Barlan, Bryce](#); [Mouritsen, Karen E](#); [McQuilliams, Jilly](#); [Ishee, Mary K](#); [Mussenden, Paul](#)  
**Subject:** major projects  
**Date:** Monday, May 14, 2012 1:10:51 PM

---

There is a conflict today at 4 – the NM potash people are coming in. So I will not be at major projects.

Ned Farquhar  
Deputy Assistant Secretary  
US Dept of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734  
[ned\\_farquhar@ios.doi.gov](mailto:ned_farquhar@ios.doi.gov)

**From:** [Pollet, Jolie](#)  
**To:** [Pollet, Jolie](#); [Barlan, Bryce](#)  
**Subject:** Missed conversation with Pollet, Jolie  
**Date:** Friday, June 22, 2012 8:55:19 AM

---

Barlan, Bryce [8:15 AM]:

heard you come in. working on the potash order right now.

your comments are good. i think we should ask phil about them.

i'll give you my feedback before our talk today, which we can then go down to phil after. sound good?

i have an 8:45 with ned - fyi

shouldn't be long - 20 mins

Pollet, Jolie [8:53 AM]:

sounds good!

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: pdf of fed reg notice and potash order 070312  
**Date:** Thursday, July 05, 2012 8:37:30 AM

---

No problem.

Hope you had fun watching the fireworks.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Thursday, July 05, 2012 06:27 AM  
**To:** Barlan, Bryce  
**Subject:** Re: pdf of fed reg notice and potash order 070312

Thank you!

---

**From:** Barlan, Bryce  
**Sent:** Thursday, July 05, 2012 06:09 AM  
**To:** Burke, Marcilynn  
**Cc:** Cardinale, Richard; Pollet, Jolie  
**Subject:** Fw: pdf of fed reg notice and potash order 070312

As requested.

Docs should be attached to this email.

Let me know if you have trouble.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Cardinale, Richard  
**Sent:** Wednesday, July 04, 2012 06:12 AM  
**To:** Barlan, Bryce; Pollet, Jolie  
**Subject:** Fw: pdf of fed reg notice and potash order 070312

---

**From:** Hawbecker, Karen  
**Sent:** Tuesday, July 03, 2012 05:25 PM  
**To:** Cardinale, Richard  
**Cc:** Haugrud, Jack; Blank, Harvey  
**Subject:** FW: pdf of fed reg notice and potash order 070312

Rich, (b) (5)

Thank you. --Karen

---

**From:** Hawbecker, Karen  
**Sent:** Tuesday, July 03, 2012 4:46 PM  
**To:** Lin, Janet H; Allard, Phil  
**Cc:** Fugate, Barbara; Blank, Harvey; Umshler, Sue; Johnson, Lynn  
**Subject:** FW: pdf of fed reg notice and potash order 070312

Janet and Phil,

Thank you. --Karen

(b)  
(5)

---

**From:** Caminiti, Mariagrazia  
**Sent:** Tuesday, July 03, 2012 4:40 PM  
**To:** Hawbecker, Karen; Blank, Harvey  
**Subject:** pdf of fed reg notice and potash order 070312

Marigrace Caminiti-Coelho

Executive Assistant to the Solicitor  
US Department of the Interior  
1849 C Street, NW, Rm. 6415  
Washington, DC 20240  
202-208-3111 - direct  
202-208-5584 - fax  
202-528-0486 - cell

.....

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**From:** [Barlan, Bryce](#)  
**To:** [Cunningham, Celina P](#)  
**Subject:** RE: potash  
**Date:** Thursday, October 04, 2012 1:07:00 PM

---

Please see my edits in redline strikeout (below).

Please let me know whether this is what you were looking for.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Cunningham, Celina P  
**Sent:** Thursday, October 04, 2012 12:45 PM  
**To:** Barlan, Bryce  
**Subject:** potash

Current language:

The BLM continues to make great progress on a final Potash Order for your consideration and approval. (b) (5)

FYI - Ned added highlighted text and feels it's important we note this whenever communicating about potash.

Celina Cunningham  
Special Assistant  
Office of the Assistant Secretary  
Land and Minerals Management  
U.S. Dept. of the Interior  
(202) 208-5348  
[celina\\_cunningham@ios.doi.gov](mailto:celina_cunningham@ios.doi.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Potash  
**Date:** Saturday, June 30, 2012 9:54:47 PM

---

Nice!

Thanks for the offer. Appreciate it.

Will keep in mind.

Enjoy the rest of your weekend.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Saturday, June 30, 2012 07:50 PM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash

Yes - I didn't lose electricity at all. Need some AC??? it looked like a tornado or a hurricane last night. I saw a cafe umbrella tumbling end over end and flying through the air. Trash cans flying. It was crazy!

Let me know if I can help. I have a sofa bed.

---

**From:** Barlan, Bryce  
**Sent:** Saturday, June 30, 2012 07:46 PM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash

Do u have power?

Its hot as heck here.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Saturday, June 30, 2012 07:45 PM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash

I agree with you on the potash order. I will pull it all together monday. Have a good weekend!

---

**From:** Barlan, Bryce  
**Sent:** Saturday, June 30, 2012 10:57 AM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash

So I just looked at the latest version of the Order (with our comments) that you shared with me.

(b) (5)

As I think about this more, I don't think going back to Phil for further discussions is necessary or will help. They seem pretty adamant.

What I would recommend is that when you receive the official surname and Ned and Marcilynn initiate their review, (b) (5)

In this case, the pressure's off of you and it'll up to Marcilynn and Ned on how to proceed.

Just my thoughts. We can discuss further on Monday.

Stay cool in this hot weather.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

---

**From:** Barlan, Bryce  
**Sent:** Friday, June 29, 2012 04:46 PM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash

Jolie,

Thank you. I appreciate the note.

Here's my take on his response on the two items:

Specific plan of development - (b) (5)

n.

(b) (5)

Now that he's explained their reasoning for this language, what do you think?

Are his explanations valid?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

---

**From:** Pollet, Jolie  
**Sent:** Friday, June 29, 2012 02:58 PM  
**To:** Barlan, Bryce  
**Subject:** Fw: Potash

Fyi

---

**From:** Allard, Phil  
**Sent:** Friday, June 29, 2012 01:30 PM  
**To:** Pollet, Jolie  
**Cc:** Lin, Janet H  
**Subject:** RE: Potash

Jolie,

(b) (5)

(  
b  
)  
(  
5)

(b) (5)

That is all for now.

Phil

---

**From:** Pollet, Jolie  
**Sent:** Thursday, June 28, 2012 9:33 AM  
**To:** Allard, Phil  
**Cc:** Lin, Janet H  
**Subject:** RE: Potash

Phil – Attached is the electronic version with track changes; Marcilynn had asked me to forward these suggested changes to BLM. The vast majority of the suggested changes reflect the need to correct typos and formatting. As you know, we don't have the hard copy surname package up here yet, and so it's quite possible someone else has found these errors already. The other comments are those that Marcilynn wanted me to share with BLM.

Please let me know if I can provide additional information. Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Allard, Phil  
**Sent:** Thursday, June 28, 2012 9:23 AM  
**To:** Pollet, Jolie  
**Cc:** Lin, Janet H  
**Subject:** Potash

I would be happy to look at Marcilynn's comments. I believe that both Marcilynn and you have electronic versions of the order. Look for a message from me at 3:51 yesterday. I will take the comments on paper or electronically.

At this point the draft of the Order we sent out yesterday is "locked" and we won't make any changes until we hear back from Jack Haguard. Once his comments come in we may "unlock" the document.

Phil

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: potash  
**Date:** Thursday, June 28, 2012 11:06:00 AM  
**Attachments:** [Potash-OG Secretarial Order \(surname version 2012 6 27\) bp edits 06.28.12 v2.doc](#)

---

Jolie,

I made one additional edit.

Please use this version instead. Sorry.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Barlan, Bryce  
**Sent:** Thursday, June 28, 2012 10:23 AM  
**To:** Pollet, Jolie  
**Subject:** RE: potash

Jolie,

Here are my edits. After I receive feedback from you on what types of comments should be presented to Ned and Marcilynn, I think we should share an electronic version with Ned prior to our meeting with him at 100.

Hopefully he'll have a moment to look at it and soak up some of the edits/comments we've provided.

What do you think?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Burke, Marcilynn

**Sent:** Wednesday, June 27, 2012 7:19 PM  
**To:** Pollet, Jolie  
**Cc:** Barlan, Bryce; Farquhar, Ned  
**Subject:** RE: potash

Thanks for your careful review Jolie.

I just fixed some more typos.

I think that the following of your comments can remain within ASLM and not go back to the BLM: 2, 4, 7, 9, and 10.

Thanks,

Marcilynn

---

Marcilynn A. Burke  
*Acting Assistant Secretary, Land and Minerals Management*  
U.S. Department of the Interior • 1849 C St., NW • Washington, DC 20240  
(202) 208-6734 (voice) • (202) 208-3619 (fax)  
[Marcilynn\\_Burke@ios.doi.gov](mailto:Marcilynn_Burke@ios.doi.gov)

---

**From:** Pollet, Jolie  
**Sent:** Wednesday, June 27, 2012 6:44 PM  
**To:** Burke, Marcilynn  
**Subject:** potash

Here are my comments. I will incorporate Bryce's comments tomorrow morning.

Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Pollet, Jolie](#)  
**To:** [Cardinale, Richard](#); [Barlan, Bryce](#); [Burke, Marcilynn](#); [Farquhar, Ned](#)  
**Cc:** [Ishee, Mary K](#)  
**Subject:** RE: Potash - O&G Draft Secretarial Order  
**Date:** Wednesday, June 27, 2012 5:40:35 PM

---

All - I just sent it to MK. The hard copy hasn't come in yet.

Jolie

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Cardinale, Richard  
**Sent:** Wednesday, June 27, 2012 5:31 PM  
**To:** Barlan, Bryce; Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned  
**Subject:** Re: Potash - O&G Draft Secretarial Order

Please share with MK.

---

**From:** Barlan, Bryce  
**Sent:** Wednesday, June 27, 2012 04:44 PM  
**To:** Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard  
**Subject:** RE: Potash - O&G Draft Secretarial Order

Rich – In your absence should we share a copy of this with MK to review, or did you want a piece of this action as part of this surnaming?

Bryce Barlan  
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---

**From:** Pollet, Jolie  
**Sent:** Wednesday, June 27, 2012 3:56 PM  
**To:** Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard  
**Cc:** Barlan, Bryce  
**Subject:** FW: Potash - O&G Draft Secretarial Order  
**Importance:** High

Marcilynn, Ned and Rich – Janet sent the draft Secretarial Order this morning. Here it is for our

review along with the schedule for its release. I haven't seen the hard copy make it up here yet.

I will start reviewing this now.

Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Allard, Phil  
**Sent:** Wednesday, June 27, 2012 3:51 PM  
**To:** Pollet, Jolie  
**Subject:** FW: Potash - O&G Draft Secretarial Order  
**Importance:** High

---

**From:** Lin, Janet H  
**Sent:** Wednesday, June 27, 2012 11:42 AM  
**To:** Cardinale, Richard; Farquhar, Ned; Burke, Marcilynn  
**Cc:** Kornze, Neil G; Pool, Michael J; Allard, Phil; Haugrud, Jack; Hawbecker, Karen  
**Subject:** Potash - O&G Draft Secretarial Order  
**Importance:** High

Hi Rich, Ned, Marcilynn:

Attached is the draft SO for surname that has been painstakingly drafted with BLM-NM, BLM-Washington office, and SOL. The SOL has advanced this same copy to Jack for his review. They threaded the needle very carefully – trying choose language that adopted as many of the JITC comments as possible while ensuring the BLM can carry out the SO in a operationally feasible and legally sound manner. Phil is finishing the draft of the NOA and a package will be circulating the Director's office today.

Also attached is the Departmental schedule, which I sent out to everyone yesterday which was firmed up on Monday night. It is very tight with the holiday. Finalization of the draft SO for release for public comment will occur next Tuesday, the 3<sup>rd</sup>, in order to meet the Secretary's schedule and already-established Tribal consultation meetings. We have planned a BLM briefing tomorrow at 4 and Monday will be the Departmental briefing at 1. We knew that you were planning to be out late this week, so we weren't sure about timing for an ASLM briefing. Ned – Rich and I spoke and it turns out you will be here tomorrow. Would you like to join our briefing at 4 tomorrow? Let us know what is preferable.

Thank you. This is historic!

---

Janet Lin

Chief of Staff

Bureau of Land Management

U.S. Department of the Interior

202-208-3801 (o)

202-341-9419 (c)

**From:** [Barlan, Bryce](#)  
**To:** [Farguhar, Ned](#)  
**Cc:** [Cardinale, Richard](#)  
**Subject:** PotAsh and API Letter  
**Date:** Wednesday, April 18, 2012 9:42:00 AM

---

Ned,

I reached out to BLM on PotAsh and the API letter yesterday, and this is what I was told:

- Janet Lin will speak to you about the Secretarial Order on PotAsh during the BLM/ASLM meeting.
- In speaking with Bill, it looks like the drafting of the API letter may still be in the draft stages, especially since David Hayes asked that Mike Nedd's directorate to meet with API first.

If you have any questions, please let me know.

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Farquhar, Ned](#)  
**Cc:** [Cardinale, Richard](#); [Anderson, Michael D](#)  
**Subject:** RE: potash and fracturing meetings  
**Date:** Friday, September 14, 2012 3:15:00 PM

---

Sounds good.

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Farquhar, Ned  
**Sent:** Friday, September 14, 2012 3:14 PM  
**To:** Barlan, Bryce  
**Cc:** Cardinale, Richard; Anderson, Michael D  
**Subject:** potash and fracturing meetings

Bryce – When the strike teams gather, I will want to drop in and see them and thank them – could you make sure these visits get on my calendar? Also please be sure that the BLM forwards the summaries as soon as they are ready. Thanks! NF

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: potash blurb  
**Date:** Wednesday, July 11, 2012 4:18:39 PM

---

Awesome!

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Wednesday, July 11, 2012 02:17 PM  
**To:** Barlan, Bryce  
**Subject:** potash blurb

This is what I will add to the short report.

On Thursday, the Secretary will announce the release of the Draft Secretarial Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico. The announcement will occur from Albuquerque's New Mexico Museum of Natural History. Following the announcement, the Secretary will host a stakeholder meeting and a press call where he expects congressional participation. This order updates the previous Secretary's Order that addresses conflicts between potash and oil and gas operators. The updates are designed to further promote efficient development of potash, oil and gas resources, while minimizing conflicts and ensuring safety of operations. Industry representatives have been working together to propose a mutually acceptable path forward. The opportunity to finalize a Secretarial Order that has the potential support of both industries is historic – particularly in light of the long and contentious history of this issue.

\*\*\*\*\*

**Jolie Pollet**

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cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Marsters, Lizzie

**Sent:** Tuesday, September 25, 2012 3:51 PM

**To:** Lin, Janet H; Allard, Phil; Pool, Michael J; Herrell, Tony J; Juen, Jesse J; Kornze, Neil G; Stovall, James K; Rees, Gareth C.; Barlan, Bryce; Cardinale, Richard; Anderson, Michael D; Luckey, Lauren; Pool, Michael J; Walker, Claudia B

**Subject:** RE: Potash Briefing paper

Thanks Janet – David may not be in town next Wednesday, but this briefing paper might suffice. I'll let you know if he needs a briefing in addition.

---

**From:** Lin, Janet H

**Sent:** Tuesday, September 25, 2012 3:39 PM

**To:** Allard, Phil; Pool, Michael J; Herrell, Tony J; Juen, Jesse J; Kornze, Neil G; Stovall, James K; Rees, Gareth C.; Barlan, Bryce; Cardinale, Richard; Anderson, Michael D; Luckey, Lauren; Pool, Michael J; Walker, Claudia B; Marsters, Lizzie

**Subject:** Potash Briefing paper

Attached is the briefing paper for the ASLM briefing next Tuesday and the Deputy Secretary briefing next Wednesday.

**From:** [Farquhar, Ned](#)  
**To:** [Barlan, Bryce](#); [Burke, Marcilynn](#); [Cardinale, Richard](#); [Lin, Janet H](#)  
**Cc:** [Lassiter, Tracie L](#)  
**Subject:** Re: Potash Briefing paper  
**Date:** Tuesday, September 25, 2012 5:36:45 PM

---

How about 11 or 10 on Thursday the 4th (which appears to work for Marcilynn and me) - no separate briefing for me. Thanks! N

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, September 25, 2012 05:17 PM  
**To:** Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard  
**Cc:** Lassiter, Tracie L  
**Subject:** FW: Potash Briefing paper

Hey All,

It looks like there won't be a briefing for David next Wednesday (October 3) anymore.

With that said, should we just cancel Ned's 1:00 pm pre-brief on Tuesday (October 2) and just have the both you (Marcilynn and Ned) briefed at the same time on Wednesday afternoon as Janet suggests?

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---

**From:** Lin, Janet H  
**Sent:** Tuesday, September 25, 2012 5:09 PM  
**To:** Luckey, Lauren; Walker, Claudia B; Barlan, Bryce  
**Subject:** FW: Potash Briefing paper

Bryce and Lauren: So I hate to say this, but I realize now that we have a briefing for Ned on Tues (which Marcilynn can't make) and a briefing Wed for Marcilynn (which David doesn't need). Instead of doing two for ASLM, can we brief both of them on Wed in the David time slot?

Ugh!

---

**From:** Marsters, Lizzie  
**Sent:** Tuesday, September 25, 2012 3:51 PM

**To:** Lin, Janet H; Allard, Phil; Pool, Michael J; Herrell, Tony J; Juen, Jesse J; Kornze, Neil G; Stovall, James K; Rees, Gareth C.; Barlan, Bryce; Cardinale, Richard; Anderson, Michael D; Luckey, Lauren; Pool, Michael J; Walker, Claudia B  
**Subject:** RE: Potash Briefing paper

Thanks Janet – David may not be in town next Wednesday, but this briefing paper might suffice. I'll let you know if he needs a briefing in addition.

---

**From:** Lin, Janet H

**Sent:** Tuesday, September 25, 2012 3:39 PM

**To:** Allard, Phil; Pool, Michael J; Herrell, Tony J; Juen, Jesse J; Kornze, Neil G; Stovall, James K; Rees, Gareth C.; Barlan, Bryce; Cardinale, Richard; Anderson, Michael D; Luckey, Lauren; Pool, Michael J; Walker, Claudia B; Marsters, Lizzie

**Subject:** Potash Briefing paper

Attached is the briefing paper for the ASLM briefing next Tuesday and the Deputy Secretary briefing next Wednesday.

**From:** [Barlan, Bryce](#)  
**To:** [Lassiter, Tracie L](#)  
**Subject:** Fw: Potash Briefing paper  
**Date:** Wednesday, October 03, 2012 4:48:33 PM  
**Attachments:** [Potash - O&G Proposed Final - Information Memorandum \(revised - sent to Dept. 9 25 2012\).docx](#)

---

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Lin, Janet H  
**Sent:** Tuesday, September 25, 2012 01:39 PM  
**To:** Allard, Phil; Pool, Michael J; Herrell, Tony J; Juen, Jesse J; Kornze, Neil G; Stovall, James K; Rees, Gareth C.; Barlan, Bryce; Cardinale, Richard; Anderson, Michael D; Luckey, Lauren; Pool, Michael J; Walker, Claudia B; Marsters, Lizzie  
**Subject:** Potash Briefing paper

Attached is the briefing paper for the ASLM briefing next Tuesday and the Deputy Secretary briefing next Wednesday.

**From:** [Barlan, Bryce](#)  
**To:** [Anderson, Michael D](#)  
**Subject:** RE: Potash Briefing  
**Date:** Tuesday, September 25, 2012 1:44:00 PM

---

yep

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---

**From:** Anderson, Michael D  
**Sent:** Tuesday, September 25, 2012 1:39 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash Briefing

Bryce, is this the subject you're talking about on Wed, 3 Oct, 1000: Potash Order Pre-Brief for Dep Secretary?

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, September 25, 2012 1:14 PM  
**To:** Lassiter, Tracie L  
**Cc:** Anderson, Michael D  
**Subject:** FW: Potash Briefing

Hey Tracie,

Please see message from Rich below regarding the potash briefing for NF.

Looks like BLM will take care of setting up the meeting.

Mike – Would you please remove that 10 o'clock block of time we reserved on MAB's and NF's calendars on this topic?

It no longer is necessary.

Thanks!

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Lin, Janet H

**Sent:** Tuesday, September 25, 2012 12:53 PM

**To:** Cardinale, Richard

**Cc:** Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren

**Subject:** RE: Potash Briefing

Rich - Sounds good - looping in Lauren who I have been working on with scheduling this meeting. Monday works well - our team is working hard this week.

We have a briefing paper that we are working to finalize now.

---

**From:** Cardinale, Richard

**Sent:** Tuesday, September 25, 2012 12:27 PM

**To:** Lin, Janet H

**Cc:** Barlan, Bryce; Anderson, Michael D; Farquhar, Ned

**Subject:** Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1<sup>st</sup>. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

**From:** [Anderson, Michael D](#)  
**To:** [Luckey, Lauren](#); [Lin, Janet H](#); [Cardinale, Richard](#)  
**Cc:** [Barlan, Bryce](#); [Farquhar, Ned](#)  
**Subject:** RE: Potash Briefing  
**Date:** Tuesday, September 25, 2012 2:26:57 PM

---

Thanks, Lauren!

---

**From:** Luckey, Lauren  
**Sent:** Tuesday, September 25, 2012 1:55 PM  
**To:** Lin, Janet H; Cardinale, Richard  
**Cc:** Barlan, Bryce; Anderson, Michael D; Farquhar, Ned  
**Subject:** RE: Potash Briefing

This meeting has been scheduled for Tuesday October 2nd from 1-2pm.

Thanks.

---

**From:** Lin, Janet H  
**Sent:** Tuesday, September 25, 2012 12:52 PM  
**To:** Cardinale, Richard  
**Cc:** Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren  
**Subject:** RE: Potash Briefing

Rich - Sounds good - looping in Lauren who I have been working on with scheduling this meeting. Monday works well - our team is working hard this week.

We have a briefing paper that we are working to finalize now.

---

**From:** Cardinale, Richard  
**Sent:** Tuesday, September 25, 2012 12:27 PM  
**To:** Lin, Janet H  
**Cc:** Barlan, Bryce; Anderson, Michael D; Farquhar, Ned  
**Subject:** Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1<sup>st</sup>. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** Re: Potash Comment on the BLM Weekly Report  
**Date:** Thursday, November 01, 2012 1:13:48 PM

---

Wow!

Thank you, sir.

Much appreciated.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Thursday, November 01, 2012 11:11 AM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash Comment on the BLM Weekly Report

Here is the timeline. January 9, 2012, Secretary Salazar asks for the JITC input. On April 5, 2012, the JITC provided their suggestions for a new Order. The BLM worked with the Solicitor's Office to prepare a draft using JITC's suggestions and other information. On July 13, 2012, this draft was published for comment. On August 3, 2012, the JITC sent comments in on the draft.

---

**From:** Barlan, Bryce  
**Sent:** Thursday, November 01, 2012 11:56 AM  
**To:** Allard, Phil  
**Subject:** Potash Comment on the BLM Weekly Report

Phil,

I know this is not typically your area of responsibility, but I was hoping you may have an answer.

The weekly report Jeff Krauss submits to ASLM (and others) had the following item:

*Update: Potash Final Secretarial Order: The Joint Industry Technical Committee submitted recommended changes to the 1986 Secretary's Potash Order. The proposed final 2012 Secretary's Order is scheduled to be signed in Nov.*

Can you tell me around when JITC submitted their recommended changes to the 1986 SO? I know the JITC was formed in 2011, but would you happen to know when they submitted their comments?

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**From:** [Farquhar, Ned](#)  
**To:** [Barlan, Bryce](#); [Burke, Marcilynn](#)  
**Subject:** RE: Potash Comments  
**Date:** Thursday, June 14, 2012 2:59:58 PM

---

That is great, thank you! NF

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

---

**From:** Barlan, Bryce  
**Sent:** Thursday, June 14, 2012 2:52 PM  
**To:** Farquhar, Ned; Burke, Marcilynn  
**Subject:** RE: Potash Comments

Ned,

Reviewed the Secretarial Order.

I have no major comments. Some sentences kind of confused me so I'd like to ask someone in BLM for clarification.

But other than that, I think it looks fine.

When Phil returns, I will be asking him some questions regarding my confusion on the sentences I had trouble with.

If anything, I can run it by you later.

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---

**From:** Farquhar, Ned  
**Sent:** Tuesday, June 12, 2012 7:18 PM  
**To:** Burke, Marcilynn; Barlan, Bryce

**Subject:** Fw: Potash Comments

[We can discuss tomorrow.](#)

---

**From:** Lin, Janet H  
**Sent:** Tuesday, June 12, 2012 05:22 PM  
**To:** Farquhar, Ned  
**Subject:** FW: Potash Comments

---

**From:** Allard, Phil  
**Sent:** Friday, June 08, 2012 10:46 AM  
**To:** Pool, Michael J; Kornze, Neil G; Lin, Janet H  
**Subject:** Potash Comments

Here is a redline strikeout version of the JITC revision to the order. Read carefully one can infer what the comments and areas of concern are.

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** FW: Potash Comments  
**Date:** Tuesday, June 19, 2012 3:41:00 PM  
**Attachments:** [2012\\_06\\_08 Draft revised Potash Order JITC.docx](#)

---

Jollie,

As promised. Here is the latest version I have. Please let me know if you have any questions.

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Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Farquhar, Ned  
**Sent:** Tuesday, June 12, 2012 7:18 PM  
**To:** Burke, Marcilynn; Barlan, Bryce  
**Subject:** Fw: Potash Comments

We can discuss tomorrow.

---

**From:** Lin, Janet H  
**Sent:** Tuesday, June 12, 2012 05:22 PM  
**To:** Farquhar, Ned  
**Subject:** FW: Potash Comments

---

**From:** Allard, Phil  
**Sent:** Friday, June 08, 2012 10:46 AM  
**To:** Pool, Michael J; Kornze, Neil G; Lin, Janet H  
**Subject:** Potash Comments

Here is a redline strikeout version of the JITC revision to the order. Read carefully one can infer what the comments and areas of concern are.

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash documents  
**Date:** Wednesday, October 10, 2012 10:34:00 AM

---

Thanks!

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Wednesday, October 10, 2012 10:17 AM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash documents

It is with Mike Pool right now so I think this afternoon.

---

**From:** Barlan, Bryce  
**Sent:** Wednesday, October 10, 2012 9:59 AM  
**To:** Allard, Phil  
**Subject:** RE: Potash documents

Phil,

When do you anticipate on sending a surnaming package up here?

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---

**From:** Allard, Phil  
**Sent:** Thursday, October 04, 2012 2:24 PM  
**To:** Burke, Marcilynn; Farquhar, Ned; Hawbecker, Karen; Lin, Janet H; Pool, Michael J; Kornze, Neil G  
**Cc:** Barlan, Bryce; Vogt, Vincent N  
**Subject:** Potash documents

Here are copies of the documents as they currently exist for the potash order. I would be happy to discuss them further if needed. We are still missing a few (press materials for

example) but I will add these as we move ahead.

**From:** [Pollet, Jolie](#)  
**To:** [Lin, Janet H](#)  
**Cc:** [Cardinale, Richard](#); [Allard, Phil](#); [Barlan, Bryce](#)  
**Subject:** Potash electronic file  
**Date:** Tuesday, July 03, 2012 3:45:22 PM  
**Attachments:** [Potash-OG Secretarial Order ASLM july3.docx](#)

---

Janet – Rich said he passed on the ASLM surnamed (subject to seeing SOL's edits) file to you. Rich asked me to forward the electronic copy that is in the file. Please let me know if I can help with anything else. Happy 4<sup>th</sup> of July!

Jolie

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

**Sec. 1 Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

**Sec. 2 Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

**Sec. 3 Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

**Sec. 4. Definitions.**

- a. **Authorized Officer** - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. **Barren Area** - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

(b) (5)

c.

- d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.
- e. Designated Potash Area - The land area described at Section 8 of this Order.
- f. (b) (5)
- g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that (b) (5) penetrate the potash formations can be performed.
- h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.
- i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.
- j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.
- k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.
- l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. 281-287).
- m. Unknown Area - An area within the Designated Potash Area where there is an

absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

- (1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil or gas lease issued for the same lands.
- (2) The BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.
- (3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a three-year mine plan.

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

e. Oil and Gas Drilling  
(b) (5)

(2) Development Areas.  
(a) (b) (5)

non-~~federal~~Federal lands.

- (b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.
- (c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.
- (d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:
  - i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
  - ii. The application of available oil and gas drilling and production technology in the Permian Basin;
  - iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
  - iv. Any long term exploration and/or mining plans provided by the potash industry;
  - v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
  - vi. The requirements of this Order; and
  - vii. Any other relevant factors.
- (e) As the Authorized Officer establishes a Development Area, the Authorized Officer will -more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the best available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations.

Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

- (f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.
- (g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

Buffer ~~zones~~ Zones of ¼ mile for oil wells and ½ mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in ~~an~~ individual cases, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(b) (5)

(4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
- (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.
- (c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

- (a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.
- (b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the ~~BLM at the~~ Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.
- (c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ,

as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Potash Lessees

An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area. A list of current potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. This notice should be prior to or concurrent with the submission of the application, plan, or proposal to the BLM. The BLM will not authorize any action prior to this notice.

f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(3) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the owner of the records to the operator of the planned program subject to the data management protocols as referenced in 6.e.(6)(c). Record owners are encouraged to comply as fully as possible with this paragraph so that the best available science may be used to define Barren Areas. The BLM will use all data available to it when delineating Barren Areas, even if some of the data was not available to the operator of the core acquisition program designed to prove the Barren Area

(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. ~~These m~~ Maps of Development Areas will be provided in a timely fashion by the BLM upon request.

**Sec. 7 Regulatory and Administrative Matters.**

- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.
- c. (b) (5)
- d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
- e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
- f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8: The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;

Surname Version, 6-27-12, Internal Review draft only

secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,  
secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

Surname Version, 6-27-12, Internal Review draft only

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The [BLM](#) Director, ~~Bureau of Land Management~~, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Internal Review Draft

**From:** [Barlan, Bryce](#)  
**To:** [Lin, Janet H](#); [Luckey, Lauren](#)  
**Subject:** Re: Potash meeting  
**Date:** Monday, September 24, 2012 9:43:19 AM

---

Hi Janet,

MAB's next openings are Thursday from 3 to 5 and Friday any time after 11. She is not available on Monday or Tuesday.

I know the goal is to brief her (MAB) prior to the Dep Secretary that week, but that's how her schedule looks.

Another option would be to have Ned attend on her behalf for a Monday or Tuesday meeting time, but I get the feeling MAB would like to be present for this briefing.

I'll clarify that when I see her this morning, but as a contingency I hope Wednesday is still on the table as an option.

Will this work for you?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

----- Original Message -----

From: Barlan, Bryce  
Sent: Monday, September 24, 2012 07:09 AM  
To: Lin, Janet H; Luckey, Lauren  
Subject: Re: Potash meeting

I'll check and get back to you real quick.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

----- Original Message -----

From: Lin, Janet H  
Sent: Monday, September 24, 2012 06:45 AM  
To: Luckey, Lauren; Barlan, Bryce  
Subject: Potash meeting

Bryce - we have an all employee event that morning. Can we look for another time?

**From:** [Hawbecker, Karen](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, October 16, 2012 3:27:06 PM

---

Bryce, (b) (5)

--Karen

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Tuesday, October 16, 2012 10:16 AM  
**To:** Hawbecker, Karen  
**Subject:** RE: Potash Order

Hi Karen,

(b) (5)

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Monday, October 15, 2012 5:25 PM  
**To:** Hawbecker, Karen  
**Subject:** RE: Potash Order

Thanks Karen. Much appreciated.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

**From:** Hawbecker, Karen

Sent: Monday, October 15, 2012 4:22 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Hi Bryce, (b) (5)

--Karen

---

From: Barlan, Bryce  
Sent: Monday, October 15, 2012 4:09 PM  
To: Hawbecker, Karen  
Subject: Potash Order

Hey Karen,

Hope all is well. (b) (5)

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

Bryce Barlan  
Office of the Assistant Secretary  
Land and Financial Management  
US Department of the Interior  
Office 202-208-4114  
Fax 202-208-6343  
bbarlan@blm.gov

---

From: Barlan, Bryce  
Sent: Monday, October 15, 2012 5:22 PM  
To: Hawbecker, Karen  
Subject: RE: Potash Order

Thanks Karen, for your contact.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Financial Management  
US Department of the Interior  
Office 202-208-4114  
Fax 202-208-6343  
bbarlan@blm.gov

---

From: Hawbecker, Karen

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** Re: Potash Order  
**Date:** Monday, September 24, 2012 4:40:31 PM

---

Thanks.

Appreciate it.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----  
From: Allard, Phil  
Sent: Monday, September 24, 2012 02:39 PM  
To: Barlan, Bryce  
Subject: Re: Potash Order

I will bring you something tomorrow AM.

----- Original Message -----  
From: Barlan, Bryce  
Sent: Monday, September 24, 2012 01:14 PM  
To: Allard, Phil  
Subject: FW: Potash Order

Hey Phil,

I was wondering if there's a revised list of consolidated comments (like the one attached which you shared with me a couple of weeks ago) that can be shared with ASLM.

What do you think?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----  
From: Allard, Phil  
Sent: Friday, September 14, 2012 4:24 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We should have a first cut at a response to comments by 9/20. I have attached a summary of comments to this message. I am not certain that this is all of them, but it is most. I believe the Solicitor may be reaching out to Ned shortly on the JITC comments which generally look like things we can accept.

-----Original Message-----  
From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:21 PM

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#); [Lin, Janet H](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 21, 2012 3:40:00 PM

---

Okay. Looks like we're all set.

Wednesday, October 3rd from 10:00 to 11:00.

This time slot has been reserved in MAB and NF calendars.

Attendees on this end are Marcilynn, Ned, Celina Cunningham, and I. And if you would, please include Rich as a cc invite.

Let me know if you have any questions.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 21, 2012 3:12 PM  
To: Allard, Phil; Lin, Janet H  
Subject: Re: Potash Order

I'm looking as we speak

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

----- Original Message -----

From: Allard, Phil  
Sent: Friday, September 21, 2012 01:11 PM  
To: Barlan, Bryce; Lin, Janet H  
Subject: RE: Potash Order

I think we could get it done in 45 minutes.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 21, 2012 3:09 PM  
To: Lin, Janet H; Allard, Phil  
Subject: RE: Potash Order

How much time would you like?

I'll try to see what I can do to squeeze in a time.

Bryce Barlan  
Office of the Assistant Secretary

**From:** [Barlan, Bryce](#)  
**To:** [Lin, Janet H](#); [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 21, 2012 2:15:00 PM

---

Hi Janet/Phil,

In addition to Ned, MAB would like to attend. Her calendar is most open on Thursday (after 3:00) and Friday (after 1:00).

Does this present a dilemma for you?

And just so I get this straight, this meeting would be the final briefing for the ASLM. Is that right?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 21, 2012 1:00 PM  
To: Lin, Janet H; Allard, Phil  
Subject: Re: Potash Order

Will do. That's all!

Will get back asap

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

----- Original Message -----

From: Lin, Janet H  
Sent: Friday, September 21, 2012 10:15 AM  
To: Allard, Phil; Barlan, Bryce  
Subject: RE: Potash Order

I'm working on the Departmental stuff today. The briefing for ASLM will be the first part of the first week of October. Bryce - any assistance with Ned's calendar would be helpful.

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 21, 2012 12:08 PM  
To: Barlan, Bryce  
Cc: Lin, Janet H  
Subject: RE: Potash Order

We are happy to schedule something. Who controls Ned's calendar?

-----Original Message-----

From: Barlan, Bryce

Sent: Friday, September 21, 2012 11:05 AM  
To: Allard, Phil  
Subject: RE: Potash Order

Hey Phil,

Any updates on the order? Has a briefing been scheduled for next week?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:30 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Certainly with Ned and Marcilynn, but I would not send it further afield. Also, please understand that this is a paraphrase of what was said in the comment letters. I don't know if we captured every last thing.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:27 PM  
To: Allard, Phil  
Subject: RE: Potash Order

Can this be shared, or not just yet.

Thanks BTW.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:24 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We should have a first cut at a response to comments by 9/20. I have attached a summary of comments to this message. I am not certain that this is all of them, but it is most. I believe the Solicitor may be reaching out to Ned shortly on the JITC comments which generally look like things we can accept.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:21 PM

To: Allard, Phil  
Subject: RE: Potash Order

Yes. Will the summaries be able to be shared before then?

Sorry to sound too eager.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:17 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Sorry, I meant the week after next. Will he be back the week of 9/24?

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:16 PM  
To: Allard, Phil  
Subject: RE: Potash Order

He started his annual leave today and will be out all of next week.

Can he conference in?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:15 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We are trying to get a meeting with the team with Mike set up for Monday. Adjacent to that could be convenient. We intend to do a few meetings during the week so we can make something work if Monday is out.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:11 PM  
To: Allard, Phil  
Subject: Potash Order

Phil,

I got a note from Ned earlier.

When the strike teams gather in WO, please let Ned and I know. He wants to drop in and thank them. I need to make sure these visits get on his calendar.

And as soon as you all have the summaries prepared, would you share it with us. He asked for them, in particular.

Need I run this by Janet or anyone first?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

----- Original Message -----  
From: Bryce Barlan  
Sent: Friday, September 14, 2012 4:11 PM  
To: Allard, Phil  
Subject: RE: Policy Order

----- Original Message -----  
From: Bryce Barlan  
Sent: Friday, September 14, 2012 4:19 PM  
To: Allard, Phil  
Subject: RE: Policy Order

----- Original Message -----  
From: Bryce Barlan  
Sent: Friday, September 14, 2012 4:19 PM  
To: Allard, Phil  
Subject: RE: Policy Order

----- Original Message -----  
From: Bryce Barlan  
Sent: Friday, September 14, 2012 4:11 PM  
To: Allard, Phil  
Subject: RE: Policy Order

We are trying to get a meeting with the team with kind of for Monday. Attached to that could be a comment. We intend to do a few meetings during the week so we can make something work if Monday is out.

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 14, 2012 4:32:00 PM

---

Awesome. Thank you.

I will be sure to pass on your qualifiers.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:30 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Certainly with Ned and Marcilynn, but I would not send it further afield. Also, please understand that this is a paraphrase of what was said in the comment letters. I don't know if we captured every last thing.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:27 PM  
To: Allard, Phil  
Subject: RE: Potash Order

Can this be shared, or not just yet.

Thanks BTW.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:24 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We should have a first cut at a response to comments by 9/20. I have attached a summary of comments to this message. I am not certain that this is all of them, but it is most. I believe the Solicitor may be reaching out to Ned shortly on the JITC comments which generally look like things we can accept.

Subject: Potash Order

Phil,

I got a note from Ned earlier.

When the strike teams gather in WO, please let Ned and I know. He wants to drop in and thank them. I need to make sure these visits get on his calendar.

And as soon as you all have the summaries prepared, would you share it with us. He asked for them, in particular.

Need I run this by Janet or anyone first?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 14, 2012 4:31:00 PM

---

Agreed. And I think Ned would agree with that philosophy as well. But I also think we just need to be able to express that concept to Ned as I believe those are the types of concerns he will have.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:28 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

According to Barbara Fugate Ms. Tomkins is OK with it. I am not certain why. I think that BLM would default to FLPMA's definition of multiple use in the absence of the line that JITC wants out of the definition. It does not mean every use on every acre.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:25 PM  
To: Allard, Phil  
Subject: RE: Potash Order

I spoke to him about that. He seemed skeptical about accepting their co-development edit.

Other than that, he didn't express concern with their edits.

Just FYI.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:24 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We should have a first cut at a response to comments by 9/20. I have attached a summary of comments to this message. I am not certain that this is all of them, but it is most. I believe the Solicitor may be reaching out to Ned shortly on the JITC comments which generally look like things we can accept.

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 14, 2012 4:20:00 PM

---

Yes. Will the summaries be able to be shared before then?

Sorry to sound too eager.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:17 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Sorry, I meant the week after next. Will he be back the week of 9/24?

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:16 PM  
To: Allard, Phil  
Subject: RE: Potash Order

He started his annual leave today and will be out all of next week.

Can he conference in?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:15 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We are trying to get a meeting with the team with Mike set up for Monday. Adjacent to that could be convenient. We intend to do a few meetings during the week so we can make something work if Monday is out.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:11 PM

To: Allard, Phil  
Subject: Potash Order

Phil,

I got a note from Ned earlier.

When the strike teams gather in WO, please let Ned and I know. He wants to drop in and thank them. I need to make sure these visits get on his calendar.

And as soon as you all have the summaries prepared, would you share it with us. He asked for them, in particular.

Need I run this by Janet or anyone first?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

Date: 2013-09-14 10:00 AM  
Subject: RE: Potash Order  
From: Phil Allard

Sorry to sound too eager.

Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----  
From: Phil Allard  
Sent: Friday, September 14, 2013 4:15 PM  
To: Bryce Barlan  
Subject: RE: Potash Order

Sorry, I meant this week's first text. Will be on deck the week of 9/24?

-----Original Message-----  
From: Bryce Barlan  
Sent: Friday, September 14, 2013 4:16 PM  
To: Phil Allard  
Subject: RE: Potash Order

He started his annual leave today and will be out till next week.

Can he continue it?

bbarlan@blm.gov  
Fax: 202-208-6243  
Office: 202-208-4114  
US Department of the Interior  
Land and Minerals Management  
Office of the Assistant Secretary  
Bryce Barlan

-----Original Message-----  
From: Phil Allard  
Sent: Friday, September 14, 2013 4:15 PM  
To: Bryce Barlan  
Subject: RE: Potash Order

We are trying to get a meeting with the team with Mike set up for Monday. Subject to that could be convenient. We intend to do a few meetings during the week so we can make something work if Monday is out.

-----Original Message-----  
From: Bryce Barlan  
Sent: Friday, September 14, 2013 4:11 PM

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Friday, September 14, 2012 4:25:00 PM

---

I spoke to him about that. He seemed skeptical about accepting their co-development edit.

Other than that, he didn't express concern with their edits.

Just FYI.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:24 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We should have a first cut at a response to comments by 9/20. I have attached a summary of comments to this message. I am not certain that this is all of them, but it is most. I believe the Solicitor may be reaching out to Ned shortly on the JITC comments which generally look like things we can accept.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:21 PM  
To: Allard, Phil  
Subject: RE: Potash Order

Yes. Will the summaries be able to be shared before then?

Sorry to sound too eager.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:17 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

Sorry, I meant the week after next. Will he be back the week of 9/24?

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:16 PM  
To: Allard, Phil  
Subject: RE: Potash Order

He started his annual leave today and will be out all of next week.

Can he conference in?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Allard, Phil  
Sent: Friday, September 14, 2012 4:15 PM  
To: Barlan, Bryce  
Subject: RE: Potash Order

We are trying to get a meeting with the team with Mike set up for Monday. Adjacent to that could be convenient. We intend to do a few meetings during the week so we can make something work if Monday is out.

-----Original Message-----

From: Barlan, Bryce  
Sent: Friday, September 14, 2012 4:11 PM  
To: Allard, Phil  
Subject: Potash Order

Phil,

I got a note from Ned earlier.

When the strike teams gather in WO, please let Ned and I know. He wants to drop in and thank them. I need to make sure these visits get on his calendar.

And as soon as you all have the summaries prepared, would you share it with us. He asked for them, in particular.

Need I run this by Janet or anyone first?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** Potash Order  
**Date:** Friday, September 14, 2012 4:11:00 PM

---

Phil,

I got a note from Ned earlier.

When the strike teams gather in WO, please let Ned and I know. He wants to drop in and thank them. I need to make sure these visits get on his calendar.

And as soon as you all have the summaries prepared, would you share it with us. He asked for them, in particular.

Need I run this by Janet or anyone first?

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Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Cc:** [Lin, Janet H](#); [Pool, Michael J](#); [Juen, Jesse J](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, September 11, 2012 12:12:00 PM

---

Thanks Phil. Really appreciate it. I'll let folks up here know it is being worked on.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

From: Allard, Phil  
Sent: Tuesday, September 11, 2012 12:09 PM  
To: Barlan, Bryce  
Cc: Lin, Janet H; Pool, Michael J; Juen, Jesse J  
Subject: RE: Potash Order

Bryce,

NM and the Washington Office are working on a schedule for the deliverables. We hope to have it ready for distribution later in the week.

Phil

-----Original Message-----

From: Barlan, Bryce  
Sent: Tuesday, September 11, 2012 11:16 AM  
To: Allard, Phil  
Cc: Lin, Janet H  
Subject: Potash Order

Phil,

Ned asked about the BLM's plans to address the comments received on the potash order.

Can BLM give folks up here an idea as to what the next steps are for collecting, summarizing, and preparing a plan to address comments?

As to how the message should be conveyed, I wasn't given an idea on that.

How about a half-pager? Just throwing it out there. What do you think?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#); [Pollet, Jolie](#)  
**Subject:** RE: Potash Order  
**Date:** Monday, July 02, 2012 11:29:00 AM

---

Wow! Okay. Will do.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Monday, July 02, 2012 11:29 AM  
**To:** Barlan, Bryce; Pollet, Jolie  
**Subject:** RE: Potash Order

Bryce, Please follow whatever instructions Rich has provided to you. My sense on Friday was that Ned recommended surname on Friday. Phil

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 11:11 AM  
**To:** Allard, Phil; Pollet, Jolie  
**Subject:** RE: Potash Order

Phil,

Thanks for the update and the docs. Is it okay to let folks here know about what you and I talked about – having the ASLM's surname submitted by noon tomorrow?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Monday, July 02, 2012 11:06 AM  
**To:** Pollet, Jolie  
**Cc:** Barlan, Bryce  
**Subject:** RE: Potash Order

This is the same version as sent earlier. I will forward a message that Janet sent late Friday. These is a briefing today at 1:00. We need final language by July 3, but people will be scarce tomorrow so would like things as soon as they can be delivered.

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 10:05 AM  
**To:** Allard, Phil  
**Cc:** Barlan, Bryce  
**Subject:** Potash Order

Phil – I just received the hard copy package. Can you please send the electronic version of the order so I can have it in case Ned or Marcilynn ask for it?

Also – can you clarify the due date? We had heard noon tomorrow, but then thought it might be noon *today*.

Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#); [Pollet, Jolie](#)  
**Subject:** RE: Potash Order  
**Date:** Monday, July 02, 2012 11:11:00 AM

---

Phil,

Thanks for the update and the docs. Is it okay to let folks here know about what you and I talked about – having the ASLM's surname submitted by noon tomorrow?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

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**Sent:** Monday, July 02, 2012 11:06 AM  
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**Cc:** Barlan, Bryce  
**Subject:** RE: Potash Order

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---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 10:05 AM  
**To:** Allard, Phil  
**Cc:** Barlan, Bryce  
**Subject:** Potash Order

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Also – can you clarify the due date? We had heard noon tomorrow, but then thought it might be noon *today*.

Thanks.

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**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930

desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Cc:** [Pollet, Jolie](#)  
**Subject:** Potash Order  
**Date:** Wednesday, June 27, 2012 10:08:00 AM

---

Phil,

Thank you for meeting with us yesterday. It was very helpful and I think will help us expedite the surnaming package once it reaches this hallway.

As previously requested, please share with Jolie and I whatever electronic version you feel is appropriate to share with the folks up here as part of the surnaming process.

The political's' schedules are pretty hectic this week, and where possible we'd like to make sure the electrons reach their hands for an expedient review process.

Again, thanks for the meeting. It was very helpful

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, June 26, 2012 2:27:00 PM

---

Wow! The old order looks very similar to the new draft Order.

Like you said, many of things that are not in track changes are items that were in the original (or should I say latest) approved Potash Order.

Just FYI.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Barlan, Bryce  
Sent: Tuesday, June 26, 2012 2:07 PM  
To: Pollet, Jolie  
Subject: RE: Potash Order

FYI - Here's a copy of the old Order. Haven't completed my read of it yet.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Pollet, Jolie  
Sent: Tuesday, June 26, 2012 10:49 AM  
To: Barlan, Bryce  
Subject: Re: Potash Order

That all works. See you in a few.

----- Original Message -----

From: Barlan, Bryce  
Sent: Tuesday, June 26, 2012 08:47 AM  
To: Pollet, Jolie  
Subject: RE: Potash Order

I've completed my review. Here are my comments and suggested edits to the Order.

Spoke to Phil this morning and he said he'd like to get together at 2:00 EST to go over our edits. Will this work for you?

How about we meet at 11:00?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

-----Original Message-----

From: Barlan, Bryce  
Sent: Tuesday, June 26, 2012 12:44 AM  
To: Pollet, Jolie  
Subject: Potash Order

Jolie,

Like I said, a ton of great comments.

I've made an attempt to respond to each of them. However, I still have not looked over the last seven of your comments. Will do that in the morning.

For now, maybe you'd like to see how I've addressed most of your comments thus far.

Let's discuss tomorrow, and meet and send our comments to Phil.

What do you think?

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, June 26, 2012 2:07:00 PM  
**Attachments:** [51FedReg5\\_1986 Potash Order.pdf](#)

---

FYI - Here's a copy of the old Order. Haven't completed my read of it yet.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

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Sent: Tuesday, June 26, 2012 10:49 AM  
To: Barlan, Bryce  
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Spoke to Phil this morning and he said he'd like to get together at 2:00 EST to go over our edits. Will this work for you?

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[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

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of your comments. Will do that in the morning.

For now, maybe you'd like to see how I've addressed most of your comments thus far.

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What do you think?

# HEINONLINE

Citation: 51 Fed. Reg. 39425 1986

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## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

## Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

## Order

Section 1. *Purpose.* This order revises the rules for concurrent operations in prospecting for, development and production of oil and gas and potash deposits owned by the United States within the designated Potash Area and for revising the designated Potash Area to which the provisions of this Order are applicable.

Section 2. *Authority.* This order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*) and the Mineral Leasing Act for Acquired Land of 1947, as amended (43 U.S.C. 351-359).

Section 3. Restatement of Rules for Concurrent Operations in Prospecting for, Development and Production of Oil and Gas and Potash Deposits Owned by the United States within the Designated Potash Area and to Revise the Designated Potash Area as follows:

## I

The Order of the Secretary of the Interior dated February 6, 1939 (4 FR 1012), withholding certain lands in New Mexico from application or lease under the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), which Order was revoked by Order of the Secretary of the Interior dated October 16, 1951 (16 FR 10669), shall continue to be revoked. The lands described in the Order of February 6, 1939 (except the E1/2E½, W½SE¼, sec. 25, T. 20 S., R. 20E, New Mexico Principal Meridian, which were withdrawn from all forms of entry by Public Land Order No. 569 (14 FR 1086)), which were opened for oil and gas leasing by the Order of October 16, 1951, shall continue to be open for oil and gas leasing. This Order shall not affect the current status of lands within respect to their being withdrawn from, or open for, entry or leasing.

## II

Subject to the provisions of I above, the provisions of the Order of the Secretary of the Interior dated November 5, 1975 (40 FR 51486), are revised to change the Potash Area Designated therein as specified in this Order.

## III. General Provisions

## A. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its position that the lease stipulations contained in the Order of November 5, 1975, adequately protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

1. Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the authorized officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.

2. No wells shall be drilled for oil or gas at a location which, in the opinion of the authorized officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.

3. When the authorized officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the authorized officer.

4. The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the authorized officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In taking any action under Part A, Items 1, 2, 3 and 4 of this Order, the authorized officer shall take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

## B. Renewal or Extension of Oil and Gas Leases

As a condition to the granting of any discretionary renewal or extension of any existing lease embracing lands included in the designated Potash Area, the lessee shall execute a stipulation identical to that specified in Part A, Items 1, 2, 3 and 4 of this Order.

## C. Potash Leases

All potash permits and leases hereafter issued or existing potash leases hereafter renewed for Federal lands within the designated Potash Area, shall be subject to a requirement either to be included in the lease or permit or imposed as a stipulation, to the effect that no mining or exploration operations shall be conducted that, in the opinion of the authorized officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil or gas lease issued for the same lands.

## D. Mineable Reserves

1. Each potash lessee shall file annually by January 1, with the District Manager, Bureau of Land Management, a map(s) on which has been delineated the following information with respect to the Federal Potash leases which are then held:

a. The areas where active mining operations are currently in progress in one or more ore zones;

b. The area where operations have been completed in one or more ore zones;

c. Those areas that are not presently being mined which are considered to contain a mineable reserve in one or more ore zone, i.e., those areas (enclaves) where potash ore is known to exist in sufficient thickness and quality to be mineable under existing technology and economics; and

d. The areas within these enclaves which are believed to be barren of commercial ore.

The authorized officer shall review the information submitted in this regard and make any revisions in the boundaries or the proposed mineable reserves (potash enclaves) which are consistent with the data available at the time of such analyses. The authorized officer shall commit the initial findings to a map(s) of suitable scale and shall thereafter revise that map(s) as necessary to reflect the latest available information.

## E. Oil and Gas Drilling

1. It is the policy of the Department of the Interior to deny approval of most applications for permits to drill oil and gas test wells from surface locations within the potash enclaves established in accordance with Part D, item 1 of this Order. Two exceptions to this policy shall be permitted under the following conditions.

a. Drilling of vertical or directional holes shall be allowed from barren areas within the potash enclaves when

the authorized officer determines that such operations will not adversely affect active or planned mining operations in the immediate vicinity of the proposed drillsite;

b. Drilling of vertical or directional holes shall be permitted from a drilling island located within a potash enclave when: (1) There are no barren areas within the enclave or drilling is not permitted on the established barren area(s) within the enclave because of interference with mining operations; (2) the objective oil and gas formation beneath the lease cannot be reached by a well which is vertically or directionally drilled from a permitted location within the barren area(s); or (3) in the opinion of the authorized officer, the target formation beneath a remote interior lease cannot be reached by a well directionally drilled from a surface location outside the potash enclave. Under these circumstances, the authorized officer shall establish an island within the potash enclave from which the drilling of that well and subsequent wells will be permitted. The authorized officer, in establishing any such island, will, consistent with present directional drilling capabilities, select a site which shall minimize the loss of potash ore. No island shall be established within one mile of any area where approved mining operations will be conducted within three years. To assist the authorized officer in this regard, he/she may require affected potash mining operators to furnish a three-year mining plan.

2. In order to protect the equities between oil and gas lessees, while at the same time reducing the number of oil and gas wells which operators propose to drill in the Potash Area, the authorized officer shall make greater use of his/her prerogative to require unitization pursuant to the regulations in 43 CFR 3180. Unitization shall be mandatory in those cases where completion of the proposed well as a producer might result in the drainage of oil and gas from beneath other Federal lands within a potash enclave. This unitization will be a prerequisite to the approval of any well which is: (1) Located adjacent to a potash enclave (within one-quarter of a mile if an oil test well or one-half mile if a gas test well) and which is to be drilled vertically to the prospective formation; (2) to be directionally drilled from an adjacent surface location to bottom in a formation beneath an enclave; or (3) to be vertically or directionally drilled from a barren area or island within an enclave. Any unit plan hereafter approved or prescribed that includes oil

and gas leases covered by this Order shall include a provision embodying in substance the requirements set forth in Part A, items, 1, 2, 3 and 4 of this Order.

3. The Department of the Interior shall cooperate with the New Mexico Oil Conservation Division in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees shall continue to have the right to protest to the New Mexico Oil Conservation Division the drilling of a proposed oil and gas test on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by New Mexico Oil Conservation Division Order No. R-111, as amended. However, the Department shall exercise its prerogative to make the final decision of whether to approve the drilling or any proposed well on a Federal oil and gas lease within the Potash Area.

4. Applications for permits to drill vertical test wells for oil and gas at locations that are in the Potash Area but outside the State of New Mexico's "Oil-Potash Area" and which do not directly offset an enclave (within one-quarter mile if an oil test well or one-half mile if a gas test well) shall be routinely processed by the authorized officer.

#### *F. Access to Maps and Surveys*

1. Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR 3180), shall be available for inspection at the Roswell District Office, Bureau of Land Management, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

2. Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3570), shall be available for inspection at the Roswell District Office, Bureau of Land Management, by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

3. Maps of potash enclaves shall be available for inspection in the Roswell District Office and Carlsbad Resource Area, Bureau of Land Management. Copies of such maps shall be available at the same offices.

#### *G. Definition*

The term "potash" as used in this Order shall be deemed to embrace potassium and associated minerals as

specified in the Act of February 27, 1927 (30 U.S.C. 281-287).

#### **IV**

The lessee of any existing lease in the designated Potash Area may make such lands subject to the rules and regulations of Part III of this Order by filing an election to do so, in duplicate, with the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico. Except to the extent modified by this Order, the general regulations contained in 43 CFR Parts 3100, 3180 and 3180 (governing the leasing and development of potash deposits) and 43 CFR Group 3500 (governing the leasing and development of potash deposits), shall be applicable to the lands covered by this Order.

**V. The designated Potash Area is as follows**

#### *New Mexico Principal Meridian*

T 22 S., R. 28 E.,  
Secs. 25 and 36.  
T. 23 S., R. 28 E.,  
Sec. 1.  
T. 19 S., R. 29 E.,  
Secs. 1 and 2;  
Secs. 11 to 15 inclusive;  
Secs. 22 to 27 inclusive;  
Secs. 34 and 36.  
T. 20 S., R. 29 E.,  
Secs. 1 and 2;  
Secs. 11 to 15 inclusive;  
Secs. 22 to 27 inclusive;  
Secs. 34 and 36 inclusive.  
T. 21 S., R. 29 E.,  
Secs. 1 to 5 inclusive;  
Secs. 10 to 15 inclusive;  
Secs. 22 to 27 inclusive;  
Secs. 34 and 36 inclusive.  
T. 22 S., R. 29 E.,  
Secs. 1 to 5 inclusive;  
Secs. 8 to 17 inclusive;  
Secs. 19 to 36 inclusive.  
T. 23 S., R. 29 E.,  
Secs. 1 to 17 inclusive;  
Secs. 21 to 28 inclusive;  
Secs. 33 to 36 inclusive.  
T. 24 S., R. 29 E.,  
Secs. 1 to 4 inclusive.  
T. 18 S., R. 30 E.,  
Secs. 8 to 17 inclusive;  
Secs. 20 to 29 inclusive;  
Secs. 32 to 36 inclusive.  
T. 19 S., R. 30 E.,  
T. 20 S., R. 30 E.,  
T. 21 S., R. 30 E.,  
T. 22 S., R. 30 E.,  
T. 23 S., R. 30 E.,  
T. 24 S., R. 30 E.,  
Secs. 1 to 18 inclusive.  
T. 19 S., R. 31 E.,  
Secs. 7, 18;  
Secs. 31 to 36 inclusive.  
T. 20 S., R. 31 E.,  
T. 21 S., R. 31 E.,  
T. 22 S., R. 31 E.,  
T. 24 S., R. 31 E.,  
Secs. 1 to 18 inclusive;  
Secs. 35 and 38.

T. 25 S., R. 31 E.,  
Secs. 1 and 2.  
T. 19 S., R. 32 E.,  
Secs. 25 to 28 inclusive;  
Secs 31 to 36 inclusive.  
T. 20 S., R. 32 E.,  
T. 21 S., R. 32 E.,  
T. 22 S., R. 32 E.,  
Secs. 1 to 12 inclusive.  
T. 19 S., R. 33 E.,  
Secs. 21 and 36 inclusive.  
T. 20 S., R. 33 E.,  
T. 21 S., R. 33 E.,  
T. 22 S., R. 33 E.,  
Secs. 1 to 12 inclusive.  
T. 19 S., R. 34 E.,  
Secs. 19 and 20;  
Secs. 29 to 32 inclusive.  
T. 20 S., R. 34 E.,  
Secs. 3 and 10 inclusive;  
Secs. 15 and 36 inclusive.  
T. 21 S., R. 34 E.,  
Secs. 5 to 8 inclusive;  
Secs. 17 to 20 inclusive;  
Secs. 29 to 32 inclusive.  
T. 22 S., R. 34 E.,  
Sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

Section 5. *Effective Date.* This Order is effective immediately.

Dated: October 21, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86-24314 Filed 10-27-86; 8:45 am]

BILLING CODE 4310-10-M

## Bureau of Land Management

[I-21104]

### Idaho; Realty Action, Sale of Public Land in Power County

**AGENCY:** Bureau of Land Management, Idaho, Interior.

**ACTION:** Notice of Realty Action, Sale of Public Land in Power County, Idaho.

**DATE AND ADDRESS:** The sale offering will be held on Wednesday, January 14, 1987, at 2:00 p.m. at Deep Creek Resource Area Office, 138 South Main, Malad City, Idaho 83252.

**SUMMARY:** The following described land has been examined and through the public-supported land use planning process have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, at no less than fair market value as determined by an appraisal:

Parcel	Legal description	Fair market value	Sale type
I-21104	T. 10 S., R. 33 E., B.M.; Sec. 17, N $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ (10 acres).	\$2,000	Direct.

When patented, the lands will be subject to the following reservations:

Parcel	Reservations
I-21104	Ditches and canals, oil and gas to U.S.

Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The previously described lands are hereby segregated from appropriation under the public land laws including the mining laws for a period of 270 days or until patent is issued, whichever comes first.

#### Sale Procedures

Sale parcel I-21104 is being offered directly to Luther Estep because of his past inadvertent use of the parcel.

Fair market value must be submitted and will constitute an application to purchase that portion of the mineral estate of no known value for the parcel. A thirty percent (30%) deposit must be submitted and an additional \$50,000 non-returnable mineral conveyance processing fee is required. The filing fee and deposit must be paid by certified check, money order, bank draft, or cashiers check. Submittal will be rejected if accompanied by a personal check.

**SUPPLEMENTARY INFORMATION:** Detailed information concerning the conditions of the sale can be obtained by contacting Wes Duggan at (208) 766-4766 or Karl Simonson at (208) 878-5514.

For a period of 45 days from the date of publication of this notice in the *Federal Register*, interested parties may submit comments to the District Manager, Bureau of Land Management, Rt. 3, Box 1, Burley, Idaho 83318. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Dated: October 20, 1986.

John Davis,

District Manager, Burley.

[FR Doc. 86-24263 Filed 10-27-86; 8:45 am]

BILLING CODE 4310-GG-M

[NM-060-07-4322-02]

### Roswell District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Roswell District Grazing Advisory Council Meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Grazing Advisory Board.

**DATE:** Tuesday, November 25, 1986, beginning at 10 a.m. A public comment period will be held following the last agenda item.

Location: BLM Roswell District Office, 1717 West Second St., Roswell, NM 88201.

**FOR FURTHER INFORMATION CONTACT:** David L. Mari, Associate District Manager, or Guadalupe Martinez, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, (505) 822-9042.

**SUPPLEMENTARY INFORMATION:** The proposed agenda will include: (1) Carlsbad RMP Completion; (2) Statewide Road Policy; (3) BLM/FS Land Exchange; (4) Status of FY 86 Range Improvement Projects; (5) Status of FY Range Improvement Projects; (6) Range Improvement Task Force (expenditure of 8100 funds); (7) Operation Respect; (8) Animal Damage Control Plan. The meeting is open to the public. Interested persons may make oral statements to the Council during the public comment period or may file written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by November 14, 1986. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Francis R. Cherry, Jr.,

District Manager.

[FR Doc. 86-24265 Filed 10-27-86; 8:45 am]

BILLING CODE 4310-FB-M

[Alaska AA-48414-CG]

### Alaska; Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48414-CG has been received covering the following lands:

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, June 26, 2012 10:47:00 AM  
**Attachments:** [2012.06.08 Draft revised Potash Order JITC.jp.bb.edits final 06.26.12.docx](#)

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I've completed my review. Here are my comments and suggested edits to the Order.

Spoke to Phil this morning and he said he'd like to get together at 2:00 EST to go over our edits. Will this work for you?

How about we meet at 11:00?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Tuesday, June 26, 2012 12:44 AM  
**To:** Pollet, Jolie  
**Subject:** Potash Order

Jolie,

Like I said, a ton of great comments.

I've made an attempt to respond to each of them. However, I still have not looked over the last seven of your comments. Will do that in the morning.

For now, maybe you'd like to see how I've addressed most of your comments thus far.

Let's discuss tomorrow, and meet and send our comments to Phil.

What do you think?

DEPARTMENT OF THE INTERIOR  
Office of the Secretary  
Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Order

Section 1. *Purpose and Effect.* (b) (5)

(b) (5)

Section 2. *Authority.* (b) (5)

Section 3. *Order Revised and Superseded.* (b) (5)

ary

(b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area (b) (5)

(b) (5)

Buffer Zone (b) (5)

(b) (5)

Designated Potash Area – (b) (5)

Development Area– (b) (5)

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(b) (5)

Drilling Island (b) (5)  
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(b) (5)

Indicated Resources – (b) (5)

Inferred Resources– (b) (5)

Joint Industry Technical Committee – (b) (5)

Measured Reserves (also known as “Potash Enclave”) – (b) (5)

JITC Comments

(b) (5)

Potash – (b) (5)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

*A. Issuance of Oil and Gas Leases*

(b) (5)

(b) (5)

(b) (5)

(b) (5)

*B. Reinstatement or Renewal of Oil and Gas Leases*

(b) (5)

*C. Potash Leases*

(b) (5)

(b) (5)

JITC Comments

(b) (5)

*D. Delineation of Resource Areas and Areas of Operation*

(b) (5)

(b) (5)

*E. Oil and Gas Drilling*

1. Drilling within the Designated Potash Area.

(b) (5)

JITC Comments

(b) (5)

(b) (5)

2. Development Areas

(b) (5)

(b) (5)



(b) (5)



(b) (5)



(b) (5)

3. Maintenance of Buffer Zones.  
(b) (5)

(b) (5)

4. Unitization and Communitization.  
(b) (5)

5. Coordination with the State of New Mexico.  
(b) (5)

(b) (5)

JITC Comments

(b) (5)

6. Potash Exploration Licenses and Approvals.

(b) (5)

(b) (5)

(b) (5)

~~6.7.~~ Notice to Potash Lessees.

(b) (5)

(b) (5)

*F. Access to Maps and Surveys and Core Data*

(b) (5)

(b) (5)

(b) (5)

IV. Regulatory and Administrative Matters

6/872012 Draft Secretary's Potash Order revision  
JITC Comments  
(b) (5)

ATTORNEY CLIENT PRIVILEGED: DO NOT RELEASE



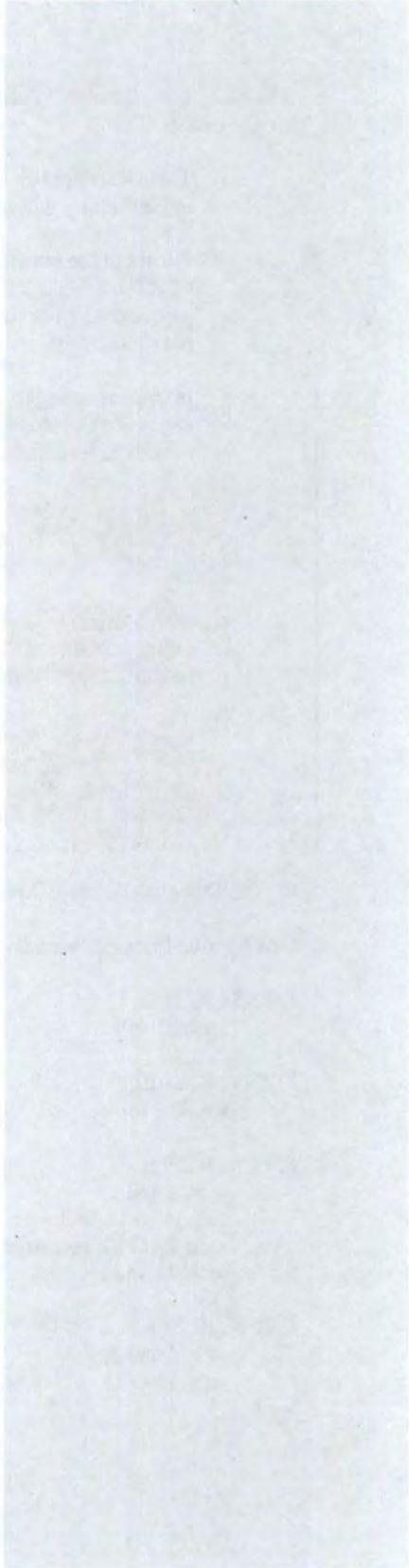
(b) (5)



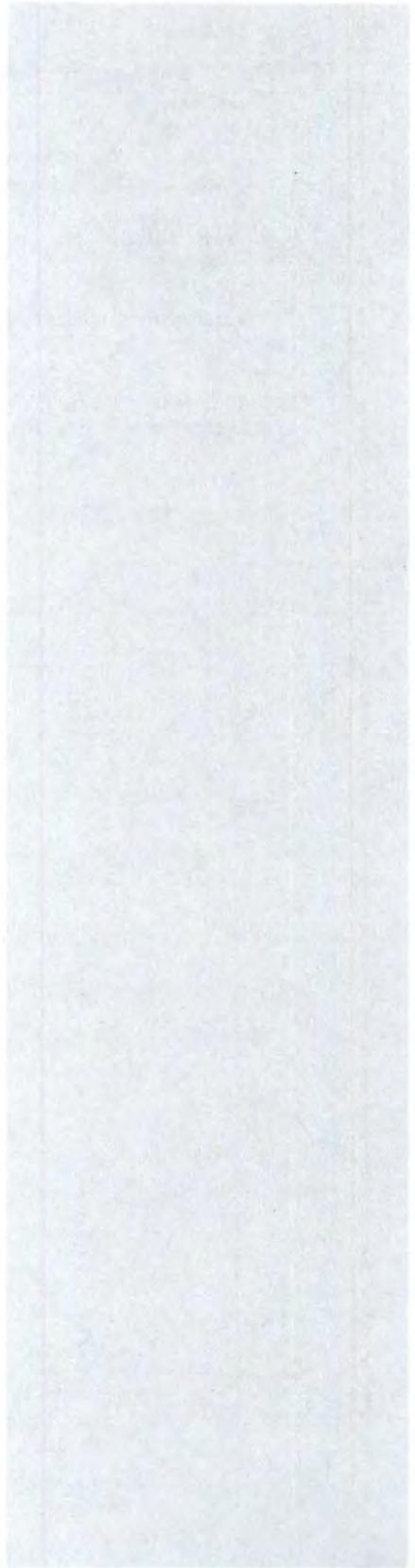
V. The Designated Potash Area is as follows:

New Mexico Principal Meridian  
(b) (5)

(b) (5)



(b) (5)



6/872012 Draft Secretary's Potash Order revision ATTORNEY CLIENT PRIVILEGED: DO NOT RELEASE  
JITC Comments  
(b) (5)

Section 4. *Administrative Provisions.* (b) (5)

Page 6: [1] Comment [PJ17]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [2] Comment [PJ18]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [3] Comment [PJ19]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [4] Comment [PJ20]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [5] Comment [PJ22]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [6] Comment [PJ23]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [7] Comment [PJ25]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [8] Comment [PJ26]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [9] Comment [PJ27]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

Page 6: [10] Comment [PJ28]

Pollet, Jolie

6/26/2012 10:42:00 AM

(b) (5)

(b) (5)

**Page 6: [11] Comment [PJ29] Pollet, Jolie 6/26/2012 10:42:00 AM**

(b) (5)

**Page 6: [12] Comment [PJ30] Pollet, Jolie 6/26/2012 10:42:00 AM**

(b) (5)

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash Order  
**Date:** Tuesday, June 26, 2012 9:33:00 AM

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I hit send too soon.

The purpose of us meeting with you is to get your thoughts on some of the comments we intend to give to Ned. Although I don't feel our comments are off-base, you may feel otherwise and maybe we can talk them out and not have Ned see certain comments.

Hope you have time.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Tuesday, June 26, 2012 9:31 AM  
**To:** Allard, Phil  
**Subject:** Potash Order

Phil,

As mentioned last week, Ned asked me to review the Potash Order and give him any comments.

With that said, Jolie and I have reviewed the document, are preparing our comments, and would like to meet with you to discuss those comments.

How's the latter half of your day looking like (except 3:30 to 4:30)?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Potash Order  
**Date:** Tuesday, June 26, 2012 12:44:20 AM  
**Attachments:** [2012 06 08 Draft revised Potash Order JITC ip bb edits 1 of 2.docx](#)

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Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

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Section 3. *Order Revised and Superseded.* (b) (5)

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Inferred Resources – (b) (5)

Joint Industry Technical Committee – (b) (5)

Measured Reserves (also known as “Potash Enclave”) – (b) (5)

JITC Comments

(b) (5)

Potash – (b) (5)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

*A. Issuance of Oil and Gas Leases*

(b) (5)

(b) (5)

(b) (5)

(b) (5)

*B. Reinstatement or Renewal of Oil and Gas Leases*  
(b) (5)

*C. Potash Leases*  
(b) (5)

(b) (5)

JITC Comments

(b) (5)

*D. Delineation of Resource Areas and Areas of Operation*

(b) (5)

(b) (5)

*E. Oil and Gas Drilling*

1. Drilling within the Designated Potash Area.

(b) (5)

(b) (5)

(b) (5)

2. Development Areas.

<sup>a</sup> (b) (5)

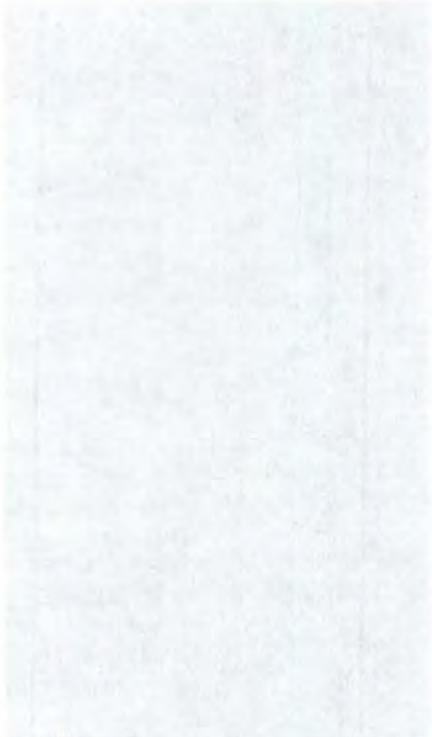
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JITC Comments

(b) (5)



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(b) (5)

(b) (5)

3. Maintenance of Buffer Zones.

(b) (5)

(b) (5)

4. Unitization and Communitization.

(b) (5)

5. Coordination with the State of New Mexico.

(b) (5)

(b) (5)



6. Potash Exploration Licenses and Approvals.

(b) (5)

(b) (5)

(b) (5)

~~6-7~~. Notice to Potash Lessees.



(b) (5)

(b) (5)

*F. Access to Maps and Surveys and Core Data*  
(b) (5)

(b) (5)

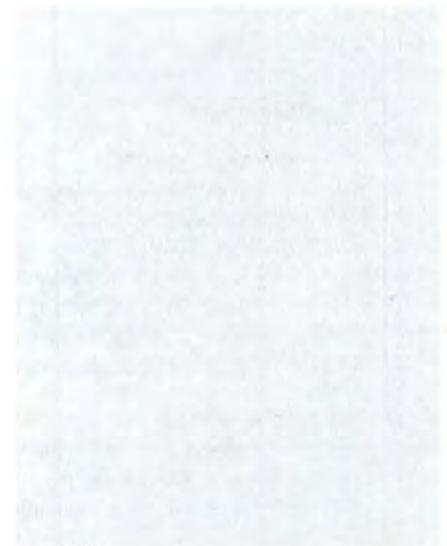
(b) (5)

IV. Regulatory and Administrative Matters

JITC Comments

(b) (5)

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|



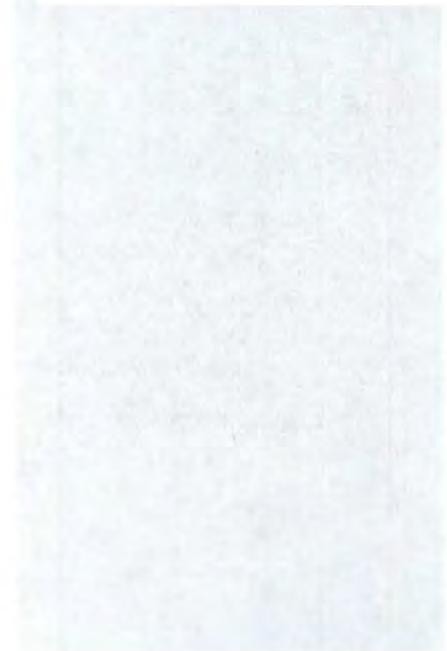
(b) (5)

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V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

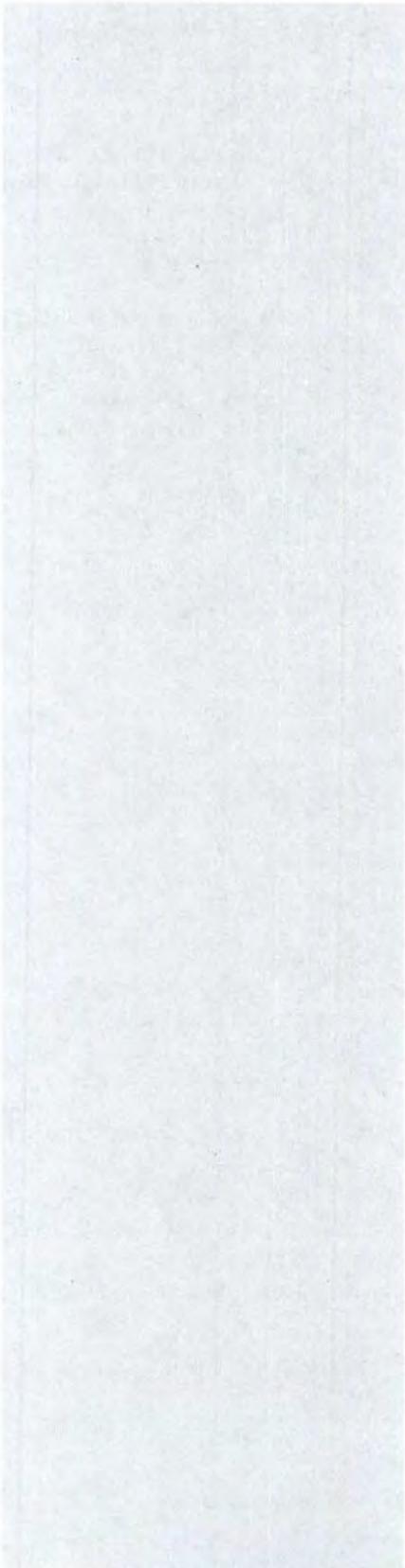


(b) (5)

6/872012 Draft Secretary's Potash Order revision  
JITC Comments

ATTORNEY CLIENT PRIVILEGED: DO NOT RELEASE

(b) (5)



Section 4. *Administrative Provisions.* (b) (5)

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**Page 6: [1] Comment [PJ17]** Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

**Page 6: [2] Comment [PJ18]** Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

**Page 6: [3] Comment [PJ19]** Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

**Page 6: [4] Comment [PJ20]** Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

**Page 6: [5] Comment [PJ22]** Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [6] Comment [PJ23] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [7] Comment [PJ25] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [8] Comment [PJ26] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [9] Comment [PJ27] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [10] Comment [PJ28] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

Page 6: [11] Comment [PJ29] Pollet, Jolie 6/26/2012 12:43:00 AM  
(b) (5)

(b) (5)

(b) (5)

**From:** [Pollet, Jolie](#)  
**To:** [Burke, Marcilynn](#); [Farquhar, Ned](#); [Cardinale, Richard](#)  
**Cc:** [Barlan, Bryce](#); [Mouritsen, Karen E](#)  
**Subject:** Potash Order - surname update  
**Date:** Tuesday, June 26, 2012 5:51:17 PM

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Marcilynn, Ned and Rich –

Bryce and I completed a preliminary review of the Draft Secretary's Potash Order and discussed some of our questions with BLM. BLM intends to have the surnaming package to us tomorrow (Wednesday). The Departmental briefing on the draft Order is planned for Friday.

As soon as I get the electronic version of the order, I will send it out to you so we can begin our concurrent review of the document. Please let me know if you need additional information.  
Thanks!

Jolie

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Barlan, Bryce](#)  
**To:** [Leff, Craig S](#)  
**Subject:** Re: Potash Sec Order  
**Date:** Wednesday, July 11, 2012 3:51:16 PM

---

Thanks craig. Much appreciated

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

**From:** Leff, Craig S  
**Sent:** Wednesday, July 11, 2012 01:46 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash Sec Order

Bryce -

Attached is a copy of the draft SO, NOA and a BP. The comm materials/PR are in draft with OCO. They're holding the pen so I don't have the most recent versions. The SO and NOA may have been slightly tweaked by DOI after we sent them up. If they were, it would have been nothing major. Hope this helps,  
Craig

Craig Leff  
BLM Communications  
202-208-6913 (office)  
202-549-9218 (cell)

-----Original Message-----

**From:** Barlan, Bryce  
**Sent:** Wednesday, July 11, 2012 3:38 PM  
**To:** Leff, Craig S  
**Subject:** Potash Sec Order

Craig,

I heard there is an announcement tomorrow on the sec order on potash.

I asked Phil about it.

He said to ask you if I can get a copy of the comm material.

We are trying to information for our weekly report and would like to add something about the potash order.

Would you please share a copy of the comm material with Jolie Pollet and I?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Fw: Potash Sec Order  
**Date:** Wednesday, July 11, 2012 3:51:03 PM  
**Attachments:** [Potash-O&G Secretarial Order, \(surname version, to Exec Sec, 7-5-12\).doc](#)  
[Potash - O&G NOA.doc \(surname version, sent to Fed Reg, 7-6-12\).docx](#)  
[Potash - Oil and Gas brf \(Briefing paper, 7-6-12, briefing book\).docx](#)

---

Here you go

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

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**Sent:** Wednesday, July 11, 2012 01:46 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash Sec Order

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Craig Leff  
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Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243

bbarlan@blm.gov

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

- a. Authorized Officer - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. Barren Area - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.
- c. Buffer Zone - Areas established by the BLM within the Designated Potash Area (1) extending outward a certain distance from the perimeter of existing underground open mine workings within which oil or gas operations are generally not allowed due to a BLM determination that oil or gas drilling could constitute a hazard to or interfere with orderly potash mining operations, or (2) extending outward a certain distance from operating oil or gas well(s) or established Drilling Islands within which potash operations are generally not allowed due to a BLM determination that potash mining or exploration operations could constitute a hazard to or interfere with orderly oil or gas operations.

- d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.
- e. Designated Potash Area - The land area described at Section 8 of this Order.
- f. Development Area - An area established by the BLM within the Designated Potash Area in consideration of appropriate oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while limiting the impact on potash resources. Each Development Area will typically have only one Drilling Island, subject to narrow exceptions based on specific facts and circumstances. All new oil and gas wells that penetrate the potash formations within a Development Area will be drilled from the Drilling Island(s) associated with that Development Area. The boundaries of each Development Area will be determined in conformity with Section 6.e.(2).
- g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that penetrate the potash formations can be performed.
- h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.
- i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.
- j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.
- k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.
- l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. §§ 281-287).
- m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves,

Indicated Resources, Inferred Resources or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

- (1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil and gas lease issued for the same lands.
- (2) BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.
- (3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and
- (8) Those areas that are planned to be mined as per a three year mine plan.

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized

Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

e. Oil and Gas Drilling

- (1) Drilling within the Designated Potash Area.  
(b) (5)

- (2) Development Areas.

- (a) When processing an application for permit to drill (APD) an oil or gas well in the Designated Potash Area that complies with regulatory requirements, the Authorized Officer will determine whether to establish a Development Area in connection with the application, and if so, will determine the boundaries of the Development Area and the location within the Development Area of one or more Drilling Islands from which drilling will be permitted. The BLM may also designate a Development Area outside of the APD process based on information in its possession, and may modify the boundaries of a Development Area. Existing wells may be included within the boundaries of a Development Area. A Development Area may include Federal oil and gas leases and other Federal and non-Federal lands.
- (b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the

Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

- (c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.
- (d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:
  - i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
  - ii. The application of available oil and gas drilling and production technology in the Permian Basin;
  - iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
  - iv. Any long term exploration and/or mining plans provided by the potash industry;
  - v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
  - vi. The requirements of this Order; and
  - vii. Any other relevant factors.
- (e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).
- (f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and

necessary.

- (g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

Buffer Zones of  $\frac{1}{4}$  mile for oil wells and  $\frac{1}{2}$  mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
- (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and

gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.

- (c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

- (a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.
- (b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.
- (c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ, as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Potash Lessees

An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area. A list of current potash lessees and potash

operators will be available and maintained by the Carlsbad Field Office, BLM. This notice should be prior to or concurrent with the submission of the application, plan, or proposal to the BLM. The BLM will not authorize any action prior to this notice.

f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(3) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the owner of the records to the operator of the planned program subject to the data management protocols as referenced in 6.e.(6)(c). Record owners are encouraged to comply as fully as possible with this paragraph so that the best available science may be used to define Barren Areas. The BLM will use all data available to it when delineating Barren Areas, even if some of the data was not available to the operator of the core acquisition program designed to prove the Barren Area.

(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. Maps of Development Areas will be provided in a timely fashion by the BLM upon request.

**Sec. 7 Regulatory and Administrative Matters.**

- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.
- c. In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including rulemaking, notices to lessees, and orders

of the Authorized Officer.

- d. The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
- e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
- f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs, 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;

secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,

secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

**Sec. 9 Administrative Provisions.** The BLM Director, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[LLNM910000 L13100000.EJ0000]

**Notice of Availability of the Draft Order of the Secretary on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** Under the authority of the Mineral Leasing Act, as amended, the Bureau of Land Management (BLM) has prepared a draft Order of the Secretary of the Interior (Secretary's Order) to address oil, gas, and potash leasing and development within the Designated Potash Area in Eddy and Lea counties in New Mexico. The draft Secretary's Order would supersede the current Secretary's Order that addresses those issues. By this notice, the BLM announces the opening of a 30-day public comment period regarding the draft Secretary's Order. The revised guidelines in the draft Secretary's Order are designed to further promote the efficient development of potash, oil, and gas resources, while minimizing conflict between the industries and ensuring the safety of operations. Among other benefits, the revised guidelines are expected to enhance the safety of underground potash miners and allow for full development of oil and gas leaseholds with fewer environmental impacts.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on the draft Secretary's Order within 30 days following the date this Notice of Availability is published in the Federal Register.

**ADDRESSES:** You may submit comments related to the draft Secretary's Order by any of the following methods:

- E-mail: [therrell@blm.gov](mailto:therrell@blm.gov);
- Fax: 505-954-2115; or
- Mail: Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail  
Santa Fe, NM 87508.

The draft Secretary's Order is available at the following website:

<http://www.blm.gov/NM/SecretaryPotashOrder/html> [REPLACE WITH REAL INTERNET ADDRESS]

**FOR FURTHER INFORMATION CONTACT:** Tony Herrell, Deputy State Director, Mineral Resources; telephone 505-954-2222; address 301 Dinosaur Trail,

Santa Fe, NM 87508; e-mail: [therrell@blm.gov](mailto:therrell@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** An area near the town of Carlsbad in southeastern New Mexico has large deposits of potash, oil, and gas. Oil and gas have been produced from this area since the early twentieth century. Potash (potassium bearing salts primarily used for fertilizer) was discovered in this area in 1925 and has been mined since 1930.

The Secretarial Potash Order was first issued by the Department of the Interior (Department) in 1939 (4 FR 1012, February 25, 1939). That Order withdrew 43,000 acres of public land from oil and gas leasing in order to protect potash deposits. The Order was amended in 1951 (16 FR 10699, October 18, 1951) to allow for multiple mineral development in a larger area

and established special lease terms for use in both potash leases and oil and gas leases. Such lease terms were designed to facilitate the protection of mineral resources and the safety of miners. The Order was also amended in 1965 (30 FR 6692, May 15, 1965), 1975 (40 FR 51486, November 5, 1975), and 1986 (51 FR 39425, October 28, 1986). A correction to the 1986 Order was issued in 1987 (52 FR 32171, August 26, 1987). The potash area designated by the corrected 1986 Order comprises approximately 497,000 acres, and the draft Order would not alter the boundaries of the area.

The potash deposits in this area occur from 800 feet to over 2,000 feet beneath the surface and are mined by both conventional and solution mining methods; conventional methods require miners to be underground. The oil and gas in the area is found in formations below the potash bearing formations, so oil and gas wells must extend through potash formations. If potash mining breached a well casing, or if a well casing near a potash mine failed for other reasons, gas could enter the mine workings, thus endangering the miners. Additionally, such a breach would raise the costs of potash mining due to the need for enhanced ventilation techniques and specialized equipment needed to mine in a gassy environment. Accordingly, given these safety risks, while potash and oil and gas are found in the same area, they cannot readily be produced at the same time. Thus, there has been a long history of conflict between the potash and the oil and gas industries.

This conflict has resulted in a great deal of litigation in this area regarding decisions made by the BLM on a variety of development applications. Nevertheless, over the past several years, the two industries have initiated efforts to work together. There have been productive meetings and discussions between many of the parties involved in these previous disputes.

Additionally, there have been significant advances in the technology of oil and gas drilling that could be used to reduce the conflict between such drilling and the extraction of potash. Further, the economic outlook for both the oil and gas industry and the potash industry has recently improved. All of these factors have combined to encourage coordination between these two industries. The BLM has also worked with Sandia National Laboratories to investigate well logging technology, gas migration in the potash formations, and standards to use for estimating the mineability of potash and potash cutoff grades. These circumstances have led to this current review of the 1986 Secretary's Order.

The draft Secretary's Order differs from the 1986 Order in several important ways. First, the formatting is modified to be consistent with the Department's style requirements for Secretary's Orders. These requirements were changed in 1992. See 012 DM 1 in the Departmental Manual.

Next, the draft Secretary's Order is built on a foundation of "co-development." This new term is used to describe concurrent development of potash and oil and gas from the Designated Potash Area through a cooperative effort between the industries under this draft Secretary's Order.

Next, the draft Secretary's Order authorizes the BLM to establish "Development Areas." Development Areas are blocks of Federal oil and gas leases, to be identified by the BLM, that could be developed as a unit from one or more "Drilling Islands." The draft Secretary's Order envisions that the oil and gas leases in a Development Area would be unitized under the regulations found at 43 CFR subpart 3180, and developed by a unit operator or operated

under a communitization agreement as authorized under 43 CFR subpart 3105. This would lead to more orderly development of the oil and gas resources in the Development Area and minimize impacts to surface resources and potash resources.

The draft Secretary's Order also defines new terms for classifying lands with regard to their potash values. "Barren Areas" are defined as lands within the designated Potash Area where sufficient data is available to establish that the area lacks mineable potash resources.

"Unknown Areas" are areas within the Designated Potash Area where there is an absence of data to classify the potash mineralization of the lands. While Barren Areas may be preferred locations for Drilling Islands, Unknown Areas may warrant protection from oil and gas drilling until such time as data is available to properly classify the potash mineralization.

It is envisioned that the majority of the Designated Potash Area will eventually be divided into Development Areas designed to minimize the impacts to potash mining while allowing for the development of oil and gas resources. It is intended that Development Areas will be developed with extended reach horizontal wells using the most current technology, consistent with applicable laws and regulations.

As described in the draft Secretary's Order, wells would be drilled from a Drilling Island established within the Development Area. In most cases, a single Drilling Island would be established for each Development Area. However, when circumstances dictate, BLM could establish additional Drilling Islands. Drilling Islands would be situated in such a manner that extended-reach horizontal wells could access oil and gas within the associated Development Areas. Under the draft Secretary's Order, in areas leased for potash or containing "Measured

Reserves" (i.e., areas where potash is known to exist in sufficient thickness and quality to be mineable), the Development Areas would generally be larger, potentially requiring the most aggressive use of extended-reach horizontal wells. In other areas, Development Areas could be smaller, and the use of extended-reach horizontal wells would likely be less.

By further utilizing a drilling island concept for oil and gas development that was first introduced in the 1986 Secretary's Order, full development of oil and gas leaseholds would occur with less impact to the environment because of the reduction in the number of drill pads and associated roads, power lines, and other ancillary facilities required to develop the oil and gas resource. The safety of the underground potash miners would also be enhanced by a reduction in the number and spacing of oil and gas drilling locations where wells penetrate the potash formation.

The draft Secretary's Order retains several important features of the 1986 Order, including the boundaries of the Designated Potash Area established in the 1986 Order, as corrected in 1987. The draft Secretary's Order also retains language of the 1986 Order for special terms and conditions for oil and gas leases and potash leases issued, readjusted, or reinstated in the Designated Potash Area. The draft Secretary's Order seeks to retain the wording of the 1986 Order to the extent practicable.

The provisions in this draft Secretary's Order are consistent with the Department's regulations, onshore orders, and the oil and gas lease form. The Department's existing regulations and onshore orders allow the BLM to impose conditions of approval on permits to drill and require protection of other mineral resources, other natural resources,

environmental quality, life, health, safety, and property. See 43 CFR subparts 3162.1, 3164.1, and 3165.1. The oil and gas lease form (BLM form 3100-11) provides that the rights granted in the lease are subject to the Secretary's subsequent formal orders when not inconsistent with the lease rights. The lease form also provides that lessees will take reasonable measures that BLM deems necessary to minimize adverse impacts to other resources and to other land uses or users. The provisions in the draft Secretary's Order are also consistent with the regulations governing potash leasing, exploration, and development. See 43 CFR part 3500 and subpart 3190.

Before including your phone number, email address, or other personal identifying information with the submission of your comments, you should be aware that your entire submission – including your personal identifying information – may be made publicly available at any time. While you may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

---

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

**INFORMATION MEMORANDUM FOR THE SECRETARY**

FROM: Mike Pool, Acting Director, Bureau of Land Management

CC: Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management  
Jack Haugrud, Deputy Solicitor

SUBJECT: Draft Secretarial Order on Oil and Gas and Potash Development Within the  
Designated Potash Area, Eddy and Lea Counties, New Mexico

DATE: July 6, 2012

I. INTRODUCTION

(b) (5)

Brief Summary Of the Draft Order

(b) (5)

(b) (5)

## II. BACKGROUND

(b) (5)

(b) (5)

#### IIV POSITION of INTERESTED PARTIES

(b) (5)

**From:** [Barlan, Bryce](#)  
**To:** [Leff, Craig S](#)  
**Subject:** Potash Sec Order  
**Date:** Wednesday, July 11, 2012 3:37:00 PM

---

Craig,

I heard there is an announcement tomorrow on the sec order on potash.

I asked Phil about it.

He said to ask you if I can get a copy of the comm material.

We are trying to information for our weekly report and would like to add something about the potash order.

Would you please share a copy of the comm material with Jolie Pollet and I?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Barlan, Bryce](#)  
**To:** [Nedd, Michael D](#); [Spisak, Timothy](#)  
**Subject:** Potash Secretarial Order  
**Date:** Tuesday, April 17, 2012 6:10:15 AM

---

Mike/Tim,

Do you know what the status is of BLM's recommendations to the Secretary regarding the Sec's request to revise the Sec Order on Oil and Gas and Potash conflicts?

Ned inquired about it yesterday. I believe he may be having a meeting with the industry soon and would like to see what the recommendations are.

Hope you can help.

Thanks.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

**From:** [Allard, Phil](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** Re: Potash SO  
**Date:** Tuesday, August 21, 2012 8:12:04 AM

---

Hadn't heard. They are still in SOL as far as I know.

----- Original Message -----

**From:** Barlan, Bryce  
**Sent:** Monday, August 20, 2012 03:05 PM  
**To:** Allard, Phil  
**Subject:** Re: Potash SO

Awesome. Thank you.

Did you hear DH wants the Onshore Orders to be completed for review and ready to be sent to OIRA by the end of the month?

Not trying to start rumors but have you heard that because I have.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

----- Original Message -----

**From:** Allard, Phil  
**Sent:** Monday, August 20, 2012 02:56 PM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash SO

Comment period extended until 8/30. JITC comments are pretty reasonable. One comment letter not so hot.

----- Original Message -----

**From:** Barlan, Bryce  
**Sent:** Monday, August 20, 2012 02:49 PM  
**To:** Allard, Phil  
**Subject:** Potash SO

Hey Phil,

How are we on this second order?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

**From:** [Barlan, Bryce](#)  
**To:** [Cardinale, Richard](#); [Ishee, Mary K](#)  
**Cc:** [Pollet, Jolie](#); [Burke, Marcilynn](#); [Farquhar, Ned](#)  
**Subject:** Re: Potash SO  
**Date:** Friday, June 29, 2012 10:20:50 AM

---

Rich/MK,

The message below is just FYI to let you know the status of the potash Sec Order.

No surname package yet.

If you have any questions, please let Jolie know. I'll be around as well if Jolie is not available.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Farquhar, Ned  
**Sent:** Thursday, June 28, 2012 03:30 PM  
**To:** Burke, Marcilynn  
**Cc:** Pollet, Jolie; Barlan, Bryce  
**Subject:** Potash SO

I just finished the BLM potash briefing. Wanted to send a couple thoughts.

(b) (5)

(b) (5)

. Hope that sounds OK.

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Cunningham, Celina P](#)  
**Subject:** FW: potash SO - Comment 33  
**Date:** Friday, September 28, 2012 3:14:00 PM

---

FYI ☺

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Farquhar, Ned  
**Sent:** Friday, September 28, 2012 3:01 PM  
**To:** Allard, Phil; Fugate, Barbara  
**Cc:** Barlan, Bryce  
**Subject:** potash SO - Comment 33

I think Phil is going to send me BLM's proposed response to comment 33, which is hugely inaccurate. It could consist of something like this:

Mr. Farquhar's statements are wrongly summarized in this comment.

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: potash SO - Comment 33  
**Date:** Monday, October 01, 2012 10:59:00 AM

---

Sounds good.

Thanks!

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Monday, October 01, 2012 10:59 AM  
**To:** Barlan, Bryce  
**Subject:** Re: potash SO - Comment 33

5631 but I am out of the office until about noon.

---

**From:** Barlan, Bryce  
**Sent:** Monday, October 01, 2012 08:25 AM  
**To:** Allard, Phil  
**Subject:** RE: potash SO - Comment 33

Where do you sit these days, Phil?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Monday, October 01, 2012 10:04 AM  
**To:** Farquhar, Ned; Fugate, Barbara  
**Cc:** Barlan, Bryce  
**Subject:** Re: potash SO - Comment 33

We will work to incorporate something along these lines. We will also reference to the science statement in the Order to give things a bit more depth.

---

**From:** Farquhar, Ned  
**Sent:** Friday, September 28, 2012 01:01 PM  
**To:** Allard, Phil; Fugate, Barbara  
**Cc:** Barlan, Bryce  
**Subject:** potash SO - Comment 33

I think Phil is going to send me BLM's proposed response to comment 33, which is hugely inaccurate. It could consist of something like this:

Mr. Farquhar's statements are wrongly summarized in this comment.

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash SO  
**Date:** Thursday, June 28, 2012 2:27:00 PM

---

Need me to do anything?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Thursday, June 28, 2012 2:05 PM  
**To:** Pollet, Jolie  
**Cc:** Lin, Janet H; Barlan, Bryce  
**Subject:** Re: Potash SO

I spoke with Barbara Fugate at length and this sentence is important to the folks in Carlsbad who proposed it. I don't have my sources in front of me but will provide more info when I return. Barbara strongly encouraged me to retain the sentence.

---

**From:** Pollet, Jolie  
**Sent:** Thursday, June 28, 2012 11:46 AM  
**To:** Allard, Phil  
**Cc:** Lin, Janet H; Barlan, Bryce  
**Subject:** Potash SO

Phil – Bryce and I just finished discussing the SO with Ned. Ned asked me to follow up with BLM on one item (6.e.2.b., last sentence). We discussed this sentence with you yesterday, and we are still unclear as to what it is really saying. Were you able to get any add'l insight on this?

Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Farquhar, Ned](#)  
**To:** [Allard, Phil](#); [Fugate, Barbara](#); [Lin, Janet H](#)  
**Cc:** [Barlan, Bryce](#)  
**Subject:** RE: potash SO - Comment 33  
**Date:** Monday, October 01, 2012 2:55:54 PM

---

Looks good to me.

---

**From:** Allard, Phil  
**Sent:** Monday, October 01, 2012 1:57 PM  
**To:** Farquhar, Ned; Fugate, Barbara; Lin, Janet H  
**Cc:** Barlan, Bryce  
**Subject:** RE: potash SO - Comment 33

Ned,

Currently we have this as our response but I am adding in the text in red. Will this work for you? (I am not quite as direct as your text suggested.)

<b>Comment Number: 33</b>	<b>Prior Commitment Made by DOI</b>
<p><b>Comment Summary:</b> In 2009, a group of ten oil and gas stakeholders accompanied Representative Teague to a meeting with Deputy Assistant Secretary Ned Farquhar. Mr. Farquhar gave the group the following assurances:</p> <ul style="list-style-type: none"><li>- No rule change will be made by the Secretary before the scientific studies now under way are completed and finalized after peer review.</li><li>- Any change in policy will be based on defensible and validated science, including gas migration and subsidence studies conducted for the WIPP.</li><li>- That all stakeholders, including the State of NM, be given a fair and complete opportunity to be involved in any consideration of a change of rules.</li><li>- And, finally, that until that all occurs, the Secretary will allow the BLM to continue to manage the Secretarial Potash Area under the 1986 Order, and continue to allow the concurrent development and permitting of both potash and oil and gas development.</li></ul>	
<p><b>Commenter(s):</b> EOG, Hanson, Eddy County, McClellan, Manzano</p>	
<p><b>Analysis:</b> The BLM agrees that the Order should incorporate all available science. Both industries recognize the need for science validation, which is why the Order establishes the role of a science advisor. Sandia has completed a number of its studies, and many are expected to continue for a number of years. The BLM will adjust its administration of the Secretary's Potash Area as new science becomes available.</p> <p>See Comment Analysis for Nos. 13 and 31 regarding stakeholder participation.</p> <p><b>It should also be noted that Mr. Farquhar's statements are not correctly summarized in this comment.</b></p>	
<p><b>Regulatory Framework:</b></p>	
<p><b>Follow-up Activities:</b></p>	

---

**From:** Farquhar, Ned  
**Sent:** Friday, September 28, 2012 3:01 PM  
**To:** Allard, Phil; Fugate, Barbara  
**Cc:** Barlan, Bryce  
**Subject:** potash SO - Comment 33

I think Phil is going to send me BLM's proposed response to comment 33, which is hugely inaccurate. It could consist of something like this:

Mr. Farquhar's statements are wrongly summarized in this comment.

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash SO - comments  
**Date:** Thursday, June 28, 2012 12:24:00 PM

---

We're good to go.

I printed out a copy for you, Ned, and I.

I will leave your copy on your desk and have already dropped Ned's copy off to his inbox.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Thursday, June 28, 2012 11:54 AM  
**To:** Farquhar, Ned; Barlan, Bryce  
**Subject:** Potash SO - comments

Ned – Attached is the draft order with comments from Bryce and me. Marcilynn provided editing comments in track changes. I have sent over the editing changes back to BLM, and MAB also said to send BLM some of my comments (but not all of my comments were sent).

We still haven't seen the hard copy, so I don't know what changes may have been made.

Bryce and I will discuss with you at 1.

Thanks.

Jolie

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Potash SO edits  
**Date:** Tuesday, July 03, 2012 8:20:03 AM

---

She has done that in the past.

Forget what I asked last night.

In circumstances like these, if she does engage with the analyst involved with the given package, then she'll do it via email with you - at least that's how I've experienced it.

Let me know if you need anything.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Tuesday, July 03, 2012 06:11 AM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash SO edits

I didn't think so, so not sure what to do. Maybe she will surname from afar...?????

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, July 03, 2012 06:07 AM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash SO edits

Wait a minute...

Is Marcilynn even coming into the office today?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 09:37 PM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash SO edits

Sounds good. Have a good evening.

Bryce Barlan  
Office: 202-208-4114

Mobile: 202-699-0700  
bbarlan@blm.gov

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 07:11 PM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash SO edits

That would be great. The hard copy is on my desk in the folder. She didn't want to take the folder...

Thank you! Hug Joanna :)

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 06:53 PM  
**To:** Pollet, Jolie  
**Subject:** Re: Potash SO edits

Sounds good.

Do you want me to work with her if she comes into the office with edits and comments (assuming you're not in the office)?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
bbarlan@blm.gov

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 05:26 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash SO edits

Thanks! I talked with MAB. She was taking home the order...I suppose we will hear from her tomorrow...???

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 7:04 PM  
**Cc:** Pollet, Jolie  
**Subject:** Re: Potash SO edits

Jolie,

Just let me know whatever you need for tomorrow morning.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Haugrud, Jack  
**Sent:** Monday, July 02, 2012 03:58 PM  
**To:** Farquhar, Ned  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie  
**Subject:** RE: Potash SO edits

Hilary hasn't a chance to look at it yet, and she has tribal meetings first thing tomorrow morning, so I doubt she'll have a chance until later tomorrow morning or early afternoon. We'll send you an electronic copy as soon as it's available, but it sounds like a good idea to surname subject to review of our edits. Marcilynn, if you get done tomorrow morning, I can be sure Hilary has your edits when she reviews.

---

**From:** Farquhar, Ned  
**Sent:** Monday, July 02, 2012 5:53 PM  
**To:** Haugrud, Jack  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie  
**Subject:** Potash SO edits

Jack – How will Marcilynn see your/Hilary's edits to the draft potash SO? Marcilynn will look at this tomorrow morning and (although I will be out for a couple weeks starting tomorrow morning for the second hip replacement) we will try to get you her edits as fast as we can. Maybe she will need to surname subject to subsequent review of SOL edits? NF

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Potash SO edits  
**Date:** Monday, July 02, 2012 8:53:16 PM

---

Sounds good.

Do you want me to work with her if she comes into the office with edits and comments (assuming you're not in the office)?

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 05:26 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash SO edits

Thanks! I talked with MAB. She was taking home the order...I suppose we will hear from her tomorrow...????

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 7:04 PM  
**Cc:** Pollet, Jolie  
**Subject:** Re: Potash SO edits

Jolie,

Just let me know whatever you need for tomorrow morning.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Haugrud, Jack  
**Sent:** Monday, July 02, 2012 03:58 PM  
**To:** Farquhar, Ned  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie

**Subject:** RE: Potash SO edits

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**Sent:** Monday, July 02, 2012 5:53 PM  
**To:** Haugrud, Jack  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie  
**Subject:** Potash SO edits

Jack – How will Marcilynn see your/Hilary's edits to the draft potash SO? Marcilynn will look at this tomorrow morning and (although I will be out for a couple weeks starting tomorrow morning for the second hip replacement) we will try to get you her edits as fast as we can. Maybe she will need to surname subject to subsequent review of SOL edits? NF

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**Cc:** [Pollet, Jolie](#)  
**Subject:** Re: Potash SO edits  
**Date:** Monday, July 02, 2012 7:03:37 PM

---

Jolie,

Just let me know whatever you need for tomorrow morning.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Haugrud, Jack  
**Sent:** Monday, July 02, 2012 03:58 PM  
**To:** Farquhar, Ned  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie  
**Subject:** RE: Potash SO edits

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**From:** Farquhar, Ned  
**Sent:** Monday, July 02, 2012 5:53 PM  
**To:** Haugrud, Jack  
**Cc:** Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Pollet, Jolie  
**Subject:** Potash SO edits

Jack – How will Marcilynn see your/Hilary's edits to the draft potash SO? Marcilynn will look at this tomorrow morning and (although I will be out for a couple weeks starting tomorrow morning for the second hip replacement) we will try to get you her edits as fast as we can. Maybe she will need to surname subject to subsequent review of SOL edits? NF

Ned Farquhar  
Deputy Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734 office  
202-253-0174 cell

**From:** [Barlan, Bryce](#)  
**To:** [Allard, Phil](#)  
**Subject:** RE: Potash stuff  
**Date:** Wednesday, October 10, 2012 3:56:00 PM

---

Will do.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Wednesday, October 10, 2012 3:56 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash stuff

You can share the comment analysis if you want.

---

**From:** Allard, Phil  
**Sent:** Wednesday, October 10, 2012 3:55 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash stuff

---

**From:** Barlan, Bryce  
**Sent:** Wednesday, October 10, 2012 3:54 PM  
**To:** Allard, Phil  
**Subject:** RE: Potash stuff

Thanks!

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Allard, Phil  
**Sent:** Wednesday, October 10, 2012 3:45 PM  
**To:** Barlan, Bryce  
**Subject:** Potash stuff

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Potash-O&G Secretarial Order - Schedule  
**Date:** Tuesday, June 26, 2012 5:58:05 PM

---

Hell yeah. No problem.

You come highly regarded.

There was no doubt on my part.

I'll do my best to support you.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Tuesday, June 26, 2012 03:52 PM  
**To:** Barlan, Bryce  
**Subject:** RE: Potash-O&G Secretarial Order - Schedule

Thank you for your confidence and help!

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, June 26, 2012 2:10 PM  
**To:** Pollet, Jolie  
**Subject:** FW: Potash-O&G Secretarial Order - Schedule

Heads-up!

You're it.

Please see email trail below.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Fw: Potash-O&G Secretarial Order - Schedule  
**Date:** Tuesday, June 26, 2012 4:52:21 PM  
**Attachments:** [Potash-OG.doc \(schedule\\_6-25-12\).docx](#)

---

Potash surnaming schedule

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Cardinale, Richard  
**Sent:** Tuesday, June 26, 2012 07:51 AM  
**To:** Burke, Marcilynn; Barlan, Bryce  
**Subject:** Fw: Potash-O&G Secretarial Order - Schedule

Fyi

---

**From:** Lin, Janet H  
**Sent:** Tuesday, June 26, 2012 09:12 AM  
**To:** Allard, Phil; Stovall, James K; Herrell, Tony J; Cranston, Craig C; Spielman, Jay R; MacDonell, George H; Farquhar, Ned; Haugrud, Jack; Iudicello, Fay; Blank, Harvey; Fugate, Barbara; Hawbecker, Karen; Umshier, Sue; Vogt, Vincent N; Nedd, Michael D; Cardinale, Richard; Marsters, Lizzie; Iudicello, Fay; Lawyer, Mark; Murphy, Timothy; Kornze, Neil G; Pool, Michael J; Velasco, Janine; Spisak, Timothy; Juen, Jesse J; Urban, Heather; Kelly, Kate P; Lee-Ashley, Matt; Mansour, Christopher; Salotti, Christopher; Boddington, Celia; Leff, Craig S  
**Subject:** Potash-O&G Secretarial Order - Schedule

All –

Attached is the current schedule as developed in conjunction with the Department for the publication of the draft Secretarial Order on Potash-OG. BLM-NM – could we get a briefing paper together in preparation for the briefings?

Thanks everyone for working hard on this high priority.

6/25/12

## Potash/O&G Draft Secretarial Order Schedule

June 27 Surname package begins circulation - Notice of Availability and Draft SO

June 28 BLM – Director Briefing

June 29  
Or July 2 Departmental Briefing

July 3 Finalize documents

July 6 Send documents to the Federal Register

July 11/12 Rollout/Announcement  
Distribution of Draft SO to Tribes  
NOA available at the Federal Register inspection desk

July 12/13 (whichever is the day after the announcement) Publication of NOA of  
Draft SO, 30 day comment period begins

### Tribal Consultation Meetings

July 17	Kiowa Tribe of Oklahoma
July 18	Comanche Indian Tribe
July 19	Apache Tribe of Oklahoma
July 20	Mescalero Apache
July 24	Ysleta del Sur Pueblo
July 25	Pueblo of Isleta
July 26	Hopi Tribe

August 11/12 Comment period closes

October 20 Publish final Secretarial Order in Federal Register and make  
Environmental Assessment available on BLM website

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** FW: Potash-O&G Secretarial Order - Schedule  
**Date:** Tuesday, June 26, 2012 2:10:00 PM

---

Heads-up!

You're it.

Please see email trail below.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Burke, Marcilynn  
**Sent:** Tuesday, June 26, 2012 2:07 PM  
**To:** Barlan, Bryce; Cardinale, Richard  
**Cc:** Farquhar, Ned  
**Subject:** Re: Potash-O&G Secretarial Order - Schedule

Sounds good to me.

Thanks,

Marcilynn A. Burke  
Acting Asst. Secretary, Land and Minerals Mgmt.  
U.S. Dept. of the Interior  
1849 C St., NW, Washington, DC 20240  
(202) 208-6734 (voice) (202) 208-3619 (fax)  
[Marcilynn\\_Burke@ios.doi.gov](mailto:Marcilynn_Burke@ios.doi.gov)

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, June 26, 2012 02:01 PM  
**To:** Cardinale, Richard; Burke, Marcilynn  
**Cc:** Farquhar, Ned  
**Subject:** RE: Potash-O&G Secretarial Order - Schedule

Rich,

Thanks for the heads-up.

I am working with Jolie on this project. She had provided a ton of valuable comments that we are working out with Phil as we speak – an early draft version at least that Ned had shared with us.

I would like to recommend that Jolie take the lead from the BLM analyst perspective in “shepherding” ASLM comments on the official surnaming package that reaches this hallway.

I think this experience, unlike surnaming packages for testimony, QFRs, etc., is a very unique opportunity for folks doing these details, primarily because it involves development of policies.

Is this okay with you all?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Cardinale, Richard  
**Sent:** Tuesday, June 26, 2012 9:51 AM  
**To:** Burke, Marcilynn; Barlan, Bryce  
**Subject:** Fw: Potash-O&G Secretarial Order - Schedule

Fyi

---

**From:** Lin, Janet H  
**Sent:** Tuesday, June 26, 2012 09:12 AM  
**To:** Allard, Phil; Stovall, James K; Herrell, Tony J; Cranston, Craig C; Spielman, Jay R; MacDonell, George H; Farquhar, Ned; Haugrud, Jack; Iudicello, Fay; Blank, Harvey; Fugate, Barbara; Hawbecker, Karen; Umshler, Sue; Vogt, Vincent N; Nedd, Michael D; Cardinale, Richard; Marsters, Lizzie; Iudicello, Fay; Lawyer, Mark; Murphy, Timothy; Kornze, Neil G; Pool, Michael J; Velasco, Janine; Spisak, Timothy; Juen, Jesse J; Urban, Heather; Kelly, Kate P; Lee-Ashley, Matt; Mansour, Christopher; Salotti, Christopher; Boddington, Celia; Leff, Craig S  
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All –

Attached is the current schedule as developed in conjunction with the Department for the publication of the draft Secretarial Order on Potash-OG. BLM-NM – could we get a briefing paper together in preparation for the briefings?

Thanks everyone for working hard on this high priority.

**From:** [Pollet, Jolie](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** Potash-OG doc (schedule 6-28-12)  
**Date:** Friday, June 29, 2012 9:10:58 AM  
**Attachments:** [Potash-OG doc \(schedule 6-28-12\).docx](#)

---

6/28/12

## Potash/O&G Draft Secretarial Order Schedule

- June 27 Surname package begins circulation - Notice of Availability and Draft SO
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Or July 2 Departmental Briefing
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- |         |                          |
|---------|--------------------------|
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| July 18 | Comanche Indian Tribe    |
| July 19 | Apache Tribe of Oklahoma |
| July 20 | Mescalero Apache         |
| July 24 | Ysleta del Sur Pueblo    |
| July 25 | Pueblo of Isleta         |
| July 26 | Hopi Tribe               |
- August 12 Comment period closes
- October 20 Publish final Secretarial Order in Federal Register and make  
Environmental Assessment available on BLM website

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** Re: Potash-OG Secretarial Order (surname version 2012 6 27)\_jp  
**Date:** Wednesday, June 27, 2012 6:08:05 PM

---

That okay. At least we're ready, and have put a bug in the political's ears.

And thanks for sending that stuff to MK already.

Much appreciated.

Bryce Barlan  
Office: 202-208-4114  
Mobile: 202-699-0700  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Wednesday, June 27, 2012 04:06 PM  
**To:** Barlan, Bryce  
**Subject:** Potash-OG Secretarial Order (surname version 2012 6 27)\_jp

Here are my comments. When I get yours, I will merge your comments with mine. Still no hard copy...

**From:** [Pollet, Jolie](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** Potash-OG Secretarial Order (surname version 2012 6 27)\_jp  
**Date:** Wednesday, June 27, 2012 6:06:05 PM  
**Attachments:** [Potash-OG Secretarial Order \(surname version 2012 6 27\) jp.doc](#)

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Here are my comments. When I get yours, I will merge your commetns with mine. Still no hard copy...

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash-OG Secretarial Order (surname version 2012 6 27)\_jp\_MAB\_bb\_notes to ASLM  
**Date:** Thursday, June 28, 2012 11:44:00 AM  
**Attachments:** [Potash-OG Secretarial Order \(surname version 2012 6 27\) jp\\_MAB\\_bb\\_notes to ASLM.docx](#)

---

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Thursday, June 28, 2012 11:38 AM  
**To:** Barlan, Bryce  
**Subject:** Potash-OG Secretarial Order (surname version 2012 6 27)\_jp\_MAB\_bb\_notes to ASLM

I am coming over...the printer is broken...again...

DEPARTMENT OF THE INTERIOR  
Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

- a. Authorized Officer - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. Barren Area - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

(b) (5)

c

(b) (5)

- d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.
- e. Designated Potash Area - The land area described at Section 8 of this Order.
- f. (b) (5)
- g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that (b) (5) penetrate the potash formations can be performed. (b) (5)
- h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.
- i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.
- j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.
- k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.
- l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. 281-287).

- m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly -interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

(b) (5)

(2) The BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.

(3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and

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(8) Those areas that are planned to be mined as per a **three-year mine plan**.

(b) (5)

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized Officer will commit the **initial** findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

(b) (5)

e. Oil and Gas Drilling

(1) Drilling within the Designated Potash Area.

(b) (5)

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(b) (5)

(2) Development Areas.

(b) (5)

(b) (5)

(1

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(b) (5)

(c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.

(d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

- i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
- ii. The application of available oil and gas drilling and production technology in the Permian Basin;
- iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
- iv. Any long term exploration and/or mining plans provided by the potash industry;
- v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
- vi. The requirements of this Order; and
- vii. Any other relevant factors.

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(e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the best available oil and gas drilling and production technology in the Permian Basin, when

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closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

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(f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.

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(g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would (b) (5) potentially be (b) (5) subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

### (3) Buffer Zones.

Buffer zones-Zones of ¼ mile for oil wells and ½ mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

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### (4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
- (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.
- (c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

- (a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.
- (b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the ~~BLM at the~~ Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.
- (c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ,

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as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

- (7) Notice to Potash Lessees
- (b) (5)

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f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

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(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. These maps of Development Areas will be provided in a timely fashion by the BLM upon request.

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**Sec. 7 Regulatory and Administrative Matters.**

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- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.  
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- d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
- e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
- f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order. (b) (5)

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;

Surname Version, 6-27-12, Internal Review draft only

secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,  
secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

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The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The BLM Director, ~~Bureau of Land Management~~, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

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Internal Review Draft

**From:** [Pollet, Jolie](#)  
**To:** [Cardinale, Richard](#); [Farquhar, Ned](#)  
**Cc:** [Barlan, Bryce](#)  
**Subject:** Potash-OG Secretarial Order \_jp\_bb\_notes to ASLM\_july\_2  
**Date:** Monday, July 02, 2012 2:16:19 PM  
**Attachments:** [Potash-OG Secretarial Order \\_jp\\_bb\\_notes to ASLM\\_july\\_2.docx](#)

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Here is the electronic version of the order with Bryce's and my final comments. I will drop off the hard copy to Rich in a few minutes.

Jolie

DEPARTMENT OF THE INTERIOR

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Office of the Secretary

Order

Subject: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect.** This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development of oil and gas and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority.** This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*), and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded.** The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 26, 1987 (52 FR 32171), is hereby superseded and the following provisions will apply to concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions.**

- a. Authorized Officer - Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.
- b. Barren Area - An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

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d. Co-development - The concurrent development of oil and gas and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash and oil and gas from the lands within the Designated Potash Area. Co-development may require that the development of the resources occur at different times and from different places.

e. Designated Potash Area - The land area described at Section 8 of this Order.

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g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that penetrate the potash formations can be performed.

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h. Indicated Resources - Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.

i. Inferred Resources - Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.

j. Joint Industry Technical Committee - A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.

k. Measured Reserves (also known as "Potash Enclave") - Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.

l. Potash - Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. 281-287).

- m. Unknown Area - An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

**Sec. 5 Status of Lands.**

This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

**Sec. 6 General Provisions.**

a. Issuance of Oil and Gas Leases

The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior dated October 28, 1986, corrected August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows:

- (1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, Bureau of Land Management, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.
- (2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
- (3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.
- (4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision providing that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases

As a condition to the granting of any discretionary reinstatement or renewal of any existing lease embracing lands included in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

c. Potash Leases

- (1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any lease issued for the same lands.
- (2) The BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.
- (3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas

Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which are then held; and lands on which exploration activities have been conducted.

- (1) The areas where active mining operations are currently in progress in one or more ore zones;
- (2) The areas where operations have been completed in one or more ore zones;
- (3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
- (4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
- (5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
- (6) Those areas that are considered to be Barren Areas;
- (7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a **three-year mine plan**.

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The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

e. -Oil and Gas Drilling

(1) Drilling within the Designated Potash Area.

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(2) Development Areas.

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- (b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island. (b) (5)
- (c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.
- (d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:
- i. The appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while limiting the impact on potash resources;
  - ii. The application of available oil and gas drilling and production technology in the Permian Basin;
  - iii. The applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;
  - iv. Any long term exploration and/or mining plans provided by the potash industry;
  - v. Whether a Barren Area may be the most appropriate area for a Drilling Island;
  - vi. The requirements of this Order; and
  - vii. Any other relevant factors.
- (e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the best available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional

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(non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

- (f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.
- (g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially potentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

Buffer ~~zones~~ Zones of ¼ mile for oil wells and ½ mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual cases, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

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(4) Unitization and Communitization.

To more properly conserve the potash and oil and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

- (a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the state's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.
- (b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.
- (c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

- (a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR subpart 3592 and subject to the terms and conditions of the potash lease.
- (b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR subpart 3506. These licenses can be obtained from the ~~BLM at the~~ Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.
- (c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ,

as appropriate, data management protocols to protect the appropriate use of the data so obtained. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Potash Lessees

An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area. A list of current potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. This notice should be prior to or concurrent with the submission of the application, plan, or proposal to the BLM. The BLM will not authorize any action prior to this notice.

f. Access to Maps and Surveys

(1) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(3) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the owner of the records to the operator of the planned program subject to the data management protocols as referenced in 6.e.(6)(c). Record owners are encouraged to comply as fully as possible with this paragraph so that the best available science may be used to define Barren Areas. The BLM will use all data available to it when delineating Barren Areas, even if some of the data was not available to the operator of the core acquisition program designed to prove the Barren Area

(4) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. These maps of Development Areas will be provided in a timely fashion by the BLM upon request.

**Sec. 7 Regulatory and Administrative Matters.**

- a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.
- b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.  
(b) (5)
- c.
- d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.
- e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.
- f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

**Sec. 8. The Designated Potash Area Legal Description.**

New Mexico Principal Meridian

T. 22 S., R. 28 E.,  
secs. 25 and 36.

T. 23 S., R. 28 E.,  
sec. 1.

T. 19 S., R. 29 E.,  
secs. 1 and 2;  
secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 35 and 36.

T. 20 S., R. 29 E.,  
secs. 1 and 2;

Surname Version, 6-27-12, Internal Review draft only

secs. 11 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 10 to 15, inclusive;  
secs. 22 to 27, inclusive;  
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,  
secs. 1 to 5, inclusive;  
secs. 8 to 17, inclusive;  
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,  
secs. 1 to 17, inclusive;  
secs. 21 to 28, inclusive;  
secs. 33 to 36, inclusive.

T. 24 S., R. 29 E.,  
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,  
secs. 8 to 17, inclusive;  
secs. 20 to 29, inclusive;  
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,  
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,  
secs. 7 and 18;  
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,  
secs. 1 to 18, inclusive;  
secs. 35 and 36.

T. 25 S., R. 31 E.,  
secs. 1 and 2.

T. 19 S., R. 32 E.,  
secs. 25 to 28, inclusive;  
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,  
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,  
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,  
secs. 19 and 20;  
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,  
secs. 3 to 10, inclusive;  
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,  
secs. 5 to 8, inclusive;  
secs. 17 to 20, inclusive;  
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,  
sec. 6.

Surname Version, 6-27-12, Internal Review draft only

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The BLM Director, ~~Bureau of Land Management~~, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Internal Review Draft

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash-OG Secretarial Order\_jp\_bb\_notes to ASLM\_july\_2  
**Date:** Monday, July 02, 2012 12:57:00 PM  
**Attachments:** [Potash-OG Secretarial Order\\_jp\\_bb\\_notes to ASLM\\_july\\_2\\_bb\\_edits.docx](#)

---

Jolie,

I've provided my comments or edits in which I've drawn your attention to by calling your name in a comment box.

I too asked some questions. Please let me know when you've had an opportunity to review and I can come over to talk.

Will this work for you?

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Barlan, Bryce  
**Sent:** Monday, July 02, 2012 11:52 AM  
**To:** Pollet, Jolie  
**Subject:** RE: Potash-OG Secretarial Order\_jp\_bb\_notes to ASLM\_july\_2

Working on it right now.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 11:45 AM  
**To:** Barlan, Bryce  
**Subject:** Potash-OG Secretarial Order\_jp\_bb\_notes to ASLM\_july\_2

Bryce – please review your comments, make edits and send back to me. I also have a note to you in one of my comments (page 7). I am working on the NOA now...

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash-OG Secretarial Order\_jp\_bb\_notes to ASLM\_july\_2  
**Date:** Monday, July 02, 2012 11:52:00 AM

---

Working on it right now.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 11:45 AM  
**To:** Barlan, Bryce  
**Subject:** Potash-OG Secretarial Order\_jp\_bb\_notes to ASLM\_july\_2

Bryce – please review your comments, make edits and send back to me. I also have a note to you in one of my comments (page 7). I am working on the NOA now...

**From:** [Barlan, Bryce](#)  
**To:** [Pollet, Jolie](#)  
**Subject:** RE: Potash-OG Secretarial Order\_to ASLM\_july2  
**Date:** Tuesday, July 03, 2012 12:40:00 PM

---

k

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Pollet, Jolie  
**Sent:** Tuesday, July 03, 2012 12:39 PM  
**To:** Barlan, Bryce  
**Subject:** Re: Potash-OG Secretarial Order\_to ASLM\_july2

I will be there soon and we can talk about next steps. Thank you!!

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, July 03, 2012 10:04 AM  
**To:** Pollet, Jolie  
**Subject:** RE: Potash-OG Secretarial Order\_to ASLM\_july2

Jolie,

Looks like we're good to go. Anything you want me to do on this end?

Although BLM said they'd like comments by noon, I think it'd be okay for us to submit the package after then. We already know that it's been signed (with a contingency, of course).

And, it'd be great if you can get this through the finish line.

However, I'll operate under what you think is best.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Burke, Marcilynn  
**Sent:** Tuesday, July 03, 2012 11:57 AM  
**To:** Pollet, Jolie  
**Cc:** Farquhar, Ned; Barlan, Bryce; Cardinale, Richard  
**Subject:** Re: Potash-OG Secretarial Order\_to ASLM\_july2

I'm ok with the comments. Please delete the ones that you wrote for my benefit, bbarlan2, and PJ6.

With that, I'm surnaming subject to seeing SOL's comments.

Thanks,

Marcilynn

---

Marcilynn A. Burke  
Acting Assistant Secretary, Land and Minerals Management  
U.S. Department of the Interior  
1849 C St., NW • Washington, DC 20240  
(202) 208-6734 (voice) • (202) 208-3619 (fax)  
[Marcilynn\\_Burke@ios.doi.gov](mailto:Marcilynn_Burke@ios.doi.gov)

On Jul 2, 2012, at 6:26 PM, "Pollet, Jolie" <[jpollet@blm.gov](mailto:jpollet@blm.gov)> wrote:

Marcilynn – Here is the electronic version of the draft SO. Ned heard from Jack H, and Jack reports that Hilary hasn't seen their edits yet and she probably won't get to review their edits until tomorrow late morning or early afternoon. Jack suggested you surname subject to review of their edits. He assured Ned he would get the electronic version of their edits as soon as they were available. I will walk over the hard copy package to you now...

Jolie  
Desk 202-208-5348  
Cell 907-223-6930

<Potash-OG Secretarial Order\_to ASLM\_july2.docx>

**From:** [Barlan, Bryce](#)  
**To:** [Burke, Marcilynn](#); [Farguhar, Ned](#)  
**Cc:** [Cardinale, Richard](#); [Cunningham, Celina P](#)  
**Subject:** Preliminary comments on Potash Order  
**Date:** Monday, September 24, 2012 3:32:00 PM  
**Attachments:** [Comments consolidated.docx](#)

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Marcilynn/Ned,

FYI - Phil shared with me a consolidated list of comments they had received from the public comment period on the proposed Potash, Oil, and Gas Order.

If he has a revised list to share, I'll pass it along to you as well.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

### **31. Coordination with Local Governments**

*Comment Summary:* The Secretary and/or BLM are required to coordinate with local governments impacted by the proposed rule. FLPMA requires land use planning, including the draft Order, to be coordinated with State and local governments. The draft Order was published without coordination with the State of New Mexico, Chaves, Eddy and/or Lea Counties.

### **32. Adopt JITC Consensus**

*Comment Summary:* The DOI/BLM should adopt the JITC consensus recommendations verbatim.

### **33. Prior Commitment Made by DOI**

*Comment Summary:* In 2009, a group of ten oil and gas stakeholders accompanied Representative Teague to a meeting with Deputy Secretary Ned Farquahar. Mr. Farquahar gave the group the following assurances:

- No rule change will be made by the Secretary before the scientific studies now under way are completed and finalized after peer review.
- Any change in policy will be based on defensible and validated science, including gas migration and subsidence studies conducted for the WIPP.
- That all stakeholders, including the State of NM, be given a fair and complete opportunity to be involved in any consideration of a change of rules.
- And, finally, that until that all occurs, the Secretary will allow the BLM to continue to manage the Secretarial Potash Area under the 1986 Order, and continue to allow the concurrent development and permitting of both potash and oil and gas development.

### **34. Technology Requirements Unfair**

*Comment Summary:* The requirements and expectations of the oil and gas industry to utilize the most up to date technology and techniques in developing oil and gas, and not to require any advancement in the potash industry's technology is completely biased. The Order needs to address this issue and mandate a technological requirement on other mining interests as well. If the companies use new technologies in mining it could lead to more of the oil and gas resources being protected and available for development, benefitting both the state and federal governments with the additional production and resulting royalties.

### **35. JITC not Representative**

*Comment Summary:* The JITC is not representative of the oil and gas industry.

### **36. Designation of Single Operator**

*Comment Summary:* The proposed Order requires forced unitization with designation of a single operator for each development area (Section 6.e.2.b.ii). This means that small independent companies do not have the opportunity to take over the operatorship of certain horizons and develop what the larger companies have no desire to. The proposed Order does not consider units with existing sub-operators in the Potash Area and how well they are cooperating. (Strata recounted its successful history working as a sub-

operator with Chevron as the unit operator, stating that the success would not have been possible under the proposed Order.)

**37. Cost of Exploratory Work**

*Comment Summary:* The proposed Order places a new costly burden on oil and gas companies to take steps to discover whether or not there is recoverable potash located in areas of oil and gas interest (Section 6.e.6). In fact, that burden should be placed on the federal government or the potash industry that will benefit directly from any information that oil and gas companies find regarding resources in these currently “unknown” potash resource areas.

**38. Shared Drilling Island**

*Comment Summary:* The creation and location of a Development Area and Drilling Island should be a cooperative decision among companies. As is the current policy, all companies within a Development Area should be allowed to operate their own acreage from a mutually agreeable shared surface location if they choose not to enter into a Unit Agreement.

**From:** [Cardinale, Richard](#)  
**To:** [Mouritsen, Karen E](#)  
**Cc:** [Barlan, Bryce](#)  
**Subject:** RE: Question for weekly report --  
**Date:** Wednesday, October 24, 2012 4:02:27 PM

---

I would not go into a great deal of detail in the report. Short and sweet about what the award represent – that is, why BLM gives these awards and a general description of the award recipients. Bottom line: I would do a 4-5 sentence paragraph at the most.

Rich

---

**From:** Mouritsen, Karen E  
**Sent:** Wednesday, October 24, 2012 10:18 AM  
**To:** Cardinale, Richard  
**Cc:** Barlan, Bryce  
**Subject:** Question for weekly report --

Rich, we talked about discussing the BLM Director's Awards in the short report. Below is the list of awardees and their office. I don't have the info on what they did, though I am sure I can very easily get it. But the list is kind of long. How do you think we should proceed? An opening sentence congratulating the awardees, then a list of their names and offices? It might get really long if we try to write more about what each of them did.

Thanks. I am going to try to put this in today so Celina can look at it first thing tomorrow.

- 
- The Director's Award for Excellence through Leadership Internal is awarded to Tony Herrell (BLM-New Mexico)
- The Director's Award for Excellence through Leadership External is awarded to the Potash, Oil and Gas Joint Industry Technical Committee (JITC).
- The Director's Award for Excellence through Stewardship is awarded to the Idaho Falls Phosphate Minerals Branch with oversight from the District Manager Joe Kraayenbrink.
- The Director's Award for Team Accomplishment is awarded to the BLM-Montana Pryor Mountain Horse Gather and Adoption Team.
- The winner of The Director's Award for Spirit of Service is awarded to Gretchen Hurley (BLM-Wyoming, Cody Field Office)
- The Director's Award for Diversity is awarded to Mark Sant and Sara Romero-Minkoff (BLM-Montana).
- The Director's Award for Safety is awarded to BLM-Oregon, Eugene District Office.

Karen Mouritsen

BLM Liaison to the Office of the Assistant Secretary for Land and Minerals Management

MIB Room 6631

202-208-5444

Cell 202-329-2030

**From:** [Farquhar, Ned](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** FW: Revised Version of Secretarial Potash Order  
**Date:** Tuesday, May 15, 2012 9:33:32 AM  
**Attachments:** [2012.05.14 Draft revised Potash Order w. redline.rtf](#)  
**Importance:** High

---

Ned Farquhar  
Deputy Assistant Secretary  
US Dept of the Interior  
1849 C Street NW - Room 6614  
Washington, DC 20240  
202-208-6734  
[ned\\_farquhar@ios.doi.gov](mailto:ned_farquhar@ios.doi.gov)

-----Original Message-----

From: Hawbecker, Karen  
Sent: Monday, May 14, 2012 7:50 PM  
To: Lin, Janet H; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Abbey, Robert V; Pool, Michael J; Farquhar, Ned; Juen, Jesse J  
Cc: Daugherty, Dennis; McNeer, Richard; Fugate, Barbara; Spector, Rachel; Umshler, Sue; Johnson, Lynn; Murphy, Timothy; Blank, Harvey; Haugrud, Jack; Tompkins, Hilary C  
Subject: Revised Version of Secretarial Potash Order  
Importance: High

I've attached for your review the latest version of the draft order. This version contains redlined changes based on our discussions this afternoon.

Please provide any final edits by noon EDT. Our goal is to complete a clean draft of the order that can be conveyed to the Secretary in the afternoon.

ATTORNEY CLIENT PRIVILEGED: DO NOT RELEASE

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Revision of 1986 Secretarial Potash Order

Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Order

Section 1. *Purpose and Effect.* (b) (5)

Section 2. *Authority.* (b) (5)

Section 3. *Order Revised and Superseded.* (b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area – (b) (5)

Designated Potash Area –

Development Area – (b) (5)

Drilling Island – (b) (5)

(b  
)

(b)  
)  
(5)

Indicated Resources – (b) (5)

Inferred Resources – (b) (5)

Joint Industry Technical Committee (b) (5)

Measured Reserves (also known as “Potash Enclave”) – (b) (5)

Potash – (b) (5)

Safety Buffer – (b) (5)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

*A. Issuance of Oil and Gas Leases*

(b) (5)

(b) (5)

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b) (5)

(b) (5)

*B. Reinstatement of Oil and Gas Leases*

(b) (5)

*C. Potash Leases*

(b) (5)

*D. Delineation of Resource Areas*

(b) (5)

ATTORNEY CLIENT PRIVILEGED: DO NOT RELEASE

(b) (5)

*E. Oil and Gas Drilling*

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

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(b) (5)

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(b) (5)

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(b) (5)

3. Maintenance of Safety Buffers.

(b) (5)

4. Unitization and Communitization.

(b) (5)

5. Coordination with the State of New Mexico.

(b) (5)

(b) (5)

(b) (5)

6. Exploration Licenses.

(b) (5)

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(b) (5)

7. Notice to Potash Lessees.

(b) (5)

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*F. Access to Maps and Surveys*

(b) (5)

(b) (5)

IV. Regulatory and Administrative Matters

(b) (5)

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

(b) (5)

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(b) (5)

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Section 4. *Administrative Provisions.* (b) (5)

**From:** [Cunningham, Celina P](#)  
**To:** [Barlan, Bryce](#)  
**Subject:** RE: Short report on share point  
**Date:** Tuesday, September 25, 2012 5:01:44 PM

---

Great. Thanks for letting me know.

---

**From:** Barlan, Bryce  
**Sent:** Tuesday, September 25, 2012 5:00 PM  
**To:** Cunningham, Celina P  
**Subject:** RE: Short report on share point

I inserted something minimal – the Secretary's O&G and Potash Order.

Please let me know if you have any questions.

Bryce Barlan  
Office of the Assistant Secretary  
Land and Minerals Management  
US Department of the Interior  
Office: 202-208-4114  
Fax: 202-208-6243  
[bbarlan@blm.gov](mailto:bbarlan@blm.gov)

---

**From:** Cunningham, Celina P  
**Sent:** Tuesday, September 25, 2012 8:58 AM  
**To:** Davis, Vermell; Mouritsen, Karen E; McQuilliams, Jully; Barlan, Bryce  
**Subject:** Short report on share point

Hi all – a new short report doc is on the sharepoint for this week. Since MAB is traveling on Thursday, I'll have to get a draft to her earlier than usual so please make your additions by 5 pm today. If there is something you think is worth mentioning but you are still tracking down info, please put a note in brackets or add a comment so I know what's coming down the pike.

Thanks!

Celina Cunningham  
Office of the Assistant Secretary  
Land and Minerals Management  
U.S. Dept. of the Interior  
1849 C St., NW, Washington, DC 20240  
(202) 208-5348  
[celina\\_cunningham@ios.doi.gov](mailto:celina_cunningham@ios.doi.gov)

**From:** [Allard, Phil](#)  
**To:** [Pollet, Jolie](#)  
**Cc:** [Barlan, Bryce](#)  
**Subject:** RE: terminology?  
**Date:** Monday, July 02, 2012 2:47:18 PM

---

The shorthand or vernacular that has developed is Secretarial Potash Area. This is not the technically correct term that we are seeking to use. We want to use Designated Potash Area. The word "Secretarial" is a possessive form of the word "Secretary." The Secretary doesn't own the area, but can designate it for special management. Therefore we want to use "Designated." Over the years New Mexico personnel have drifted to calling it the Secretarial Potash Area on an informal basis. We will work to correct this incorrect usage.

Phil

---

**From:** Pollet, Jolie  
**Sent:** Monday, July 02, 2012 1:20 PM  
**To:** Allard, Phil  
**Cc:** Barlan, Bryce  
**Subject:** terminology?

Phil – can you please confirm one last (hopefully) item? I see in the Briefing Paper a mention of a "Secretarial Potash Area" (SPA) and in the Order and FRN, "Designated Potash Area." The 1986 order refers to it as the Designated Potash Area. Is the correct term "Designated Potash Area"?

Thanks.

\*\*\*\*\*

**Jolie Pollet**  
On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK

**From:** [Allard, Phil](#)  
**To:** [Nedd, Michael D](#); [Boddington, Celia](#); [Roberson, Edwin](#); [Hawbecker, Karen](#); [Farquhar, Ned](#); [Kornze, Neil G](#); [Pool, Michael J](#); [Iudicello, Fay](#)  
**Cc:** [Blank, Harvey](#); [Fugate, Barbara](#); [Vogt, Vincent N](#); [Barlan, Bryce](#); [Leverette, Mitchell](#); [Martin, Benjamin E](#); [Lin, Janet H](#); [Herrell, Tony J](#); [Juen, Jesse J](#); [Wells, Steven](#)  
**Subject:** Timeline for the Secretarial Order on Potash  
**Date:** Tuesday, September 11, 2012 12:22:43 PM  
**Attachments:** [Potash Timeline 9 10 12 \(3\).docx](#)

---

New Mexico has prepared the attached timeline for preparing the deliverables for a revision to the Secretary's Order on the Special Potash Area in New Mexico. Meeting this schedule will require the cooperation of many different people here in DC and we thank you in advance for your assistance.

Phil

# Potash Timeline Draft

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## **Week of September 10, 2012**

Comments summarized and forwarded to field office. New Mexico will begin analysis and draft response to comments.

## **Week of September 17, 2012**

Comment summaries, analysis, and draft response completed and forwarded to WO, Phil Allard, COB September 20.

## **Week of September 23, 2012**

Tony Herrell, Jim Stovall, Jill Moran, and Jay Spielman travel to D.C. Sunday September 23 to work on producing three products by the end of the week:

- A recommended Draft Order
- A summary response to all comments
- Individual responses to all comments

Phil Allard will secure a small conference room for the group for the entire week.

**September 25, 2012 Afternoon:** Afternoon briefing with Director Mike Pool and NM State Director.

**September 26-27** Continue working on all products

### **Other briefings as required, including:**

- Fluid and Solid Minerals
- Communication Shop
- Solicitors Office
- Other briefings as necessary

## **September 27, 2012**

All products are due; draft order, summary response to comments, and individual response to comments.

## **October 1 through 10**

Solicitors Office review in coordination with Director's Office (Phil Allard), Southwest Regional Solicitor and NM Deputy State Director.

**October 11 and 12.** Final Briefings for ASLM and Department

October 15, Order signed in coordination with comment responses.

**From:** [Pollet, Jolie](#)  
**To:** [Cardinale, Richard](#)  
**Cc:** [Barian, Bryce](#)  
**Subject:** weekly report - potash entry  
**Date:** Tuesday, July 03, 2012 2:09:39 PM

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Rich – here is a first cut at a potash entry for the Weekly Report.

- **Potash:** ASLM has been working with the BLM in reviewing the draft Secretary’s Order (SO) addressing potash mining and oil and gas operations in New Mexico’s Designated Potash Area. The NOA for the draft SO will be published in the Federal Register July 13. The SO is built on a foundation of “co-development” that promotes efforts to facilitate development of potash, and oil and gas resources in the Area.

\*\*\*\*\*

**Jolie Pollet**

On temporary assignment with DOI ASLM (June 18-July 13)  
cell phone 907-223-6930  
desk phone 202-208-5348

Renewable Resources Branch Chief  
BLM - Alaska State Office, Anchorage, AK