January 11, 2010 Continued
Monday

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

January 12, 2010
Tuesday

12:30 PM - 1:30 PM **LUNCH**

2:00 PM - 3:00 PM **BLM/ASLM Weekly Directors Meeting -- 6616**

2:00 PM - 3:00 PM **Fire Policy Meeting -- IOC - Room 3400**
When: Tuesday, January 12, 2010 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: IOC - Room 3400

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

REMINDER—If an Assistant Secretary is unavailable, we would like a DAS, and if a bureau director is not available, we would like a deputy or another SES-level official. Whoever attends should have at least some responsibility for fire issues and be able to speak for their bureau/hallway on those issues.

Have your assistant contact Shirley at 208-1927 in letting her know if you will be sending an alternate.

Thanks.

January 13, 2010
Wednesday

9:00 AM - 10:00 AM **DOI - Deputy Secretary Mtg. re: Hot Topics -- Room 6119**

9:30 AM - 10:00 AM **Mtg. w/ Liz re: Capewind -- Room 6613**

10:00 AM - 11:00 AM **ASLM - Scheduling Requests Mtg -- 6616**

10:00 AM - 10:30 AM **HOLD/TENTATIVE- CAPE WIND**

10:30 AM - 11:30 AM **Weekly Meeting to Discuss Next Steps on WH&B Program -- 6616**
When: Wednesday, January 13, 2010 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).

January 06, 2010 Continued
Wednesday

January 07, 2010
Thursday

All Day	**WL OUT OF OFFICE** **Please See Above**
12:30 PM - 1:30 PM	**LUNCH**
1:00 PM - 2:00 PM	**ASLM - Discussion on Major Projects for the Week -- 6616**

January 08, 2010
Friday

All Day	**WL OUT OF OFFICE** **Please See Above**
9:00 AM - 10:00 AM	**Weekly Politicals Meeting -- Room 5160**
12:30 PM - 1:30 PM	**LUNCH**
12:30 PM - 1:30 PM	**Politicals Brown Bag Lunch -- Room 7000-B**

January 09, 2010
Saturday

All Day	**WL OUT OF OFFICE** **Please See Above**

January 10, 2010
Sunday

12:00 AM - 12:00 AM	**WL OUT OF OFFICE** **Please See Above**

January 11, 2010
Monday

9:00 AM - 10:00 AM	**Weekly Meeting w/ Tom Strickland -- Room 6150**
12:30 PM - 1:30 PM	**LUNCH**
2:00 PM - 3:00 PM	**ASLM - Discussion on Major Projects for the Week -- 6616**
5:00 PM - 5:45 PM	**Internal: Cape Wind: (Staff: Hilary Tompkins, Tom Strickland, Dan Wenk, Wilma Lewis, Ned Farquhar, Liz Birnbaum, David Hayes, Laura Davis) Wilma Lewis will call 202-219-7499 -- Office of the Secretary** When: Monday, January 11, 2010 5:00 PM-5:45 PM (GMT-05:00) Eastern Time (US & Canada). Where: Office of the Secretary

January 26, 2010
Tuesday

10:15 AM - 11:00 AM

Rescheduled: [CR#6616] - Evaluation Process for the Nominations/Applications for the Potential Second Round of Oil Shale Research, Development and Demonstration Leasing Discussion w/Wilma Lewis, Ned Farquhar, Richard Cardinale, Bob Abbey, Mike Pool, Mar -- 6616

ATT00001.htm

OC: Nick Douglas

ATT00002.htm

c092604.ics

912-7311

11:00 AM - 12:00 PM

Internal meeting re BLM (Staff: Bob Abbey, Wilma Lewis, Renee Stone, David Hayes, Ned Farquhar, Ken Lane, Laura Davis) -- Office of the Secretary

When: Tuesday, January 26, 2010 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Office of the Secretary

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

12:30 PM - 1:30 PM

LUNCH

1:00 PM - 2:00 PM

Internal meeting with Bureau: MMS (Staff: Liz Birnbaum, Tom Strickland, David Hayes, Laura Davis, Renee Stone, Ken Lane, Wilma Lewis, Ned Farquhar, Mary Katherine Ishee) -- Office of the Secretary

When: Tuesday, January 26, 2010 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Office of the Secretary

Note: The GMT offset above does not reflect daylight saving time adjustments.

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2:00 PM - 3:00 PM

BLM/ASLM Weekly Directors Meeting -- 6616

2:30 PM - 3:00 PM

Information Update - Subject has changed: [CR#6616] - Potash Briefing w/Bob Abbey, Mike Pool, Marcilynn Burke, William Falsey, Wilma Lewis, Ned Farquhar, Brenda Aird, Mike Nedd, Tim Spisak, Mitchell Leverette, and Frank Martin [Bridge Line: (b) (5) , (b) (5)

ATT00001.htm

c140823.ics

Lassiter, Tracie L

From: Barlan, Bryce
Sent: Thursday, October 11, 2012 5:17 PM
To: Farquhar, Ned; Cardinale, Richard
Cc: Burke, Marcilynn
Subject: RE: Potash Order
Attachments: Potash - OG Secretary decision memo (10 10 2012)_bb edits 10.10.12.docx; Potash - SO - Draft_10.9.12_bb edits 10.10.12.doc; POTASH-OG NOA for comment analysis 10-10-12_bb edits 10.10.12.docx

Greetings Ned/Rich,

I've completed my review of the document we currently have in surnaming from the BLM regarding the Sec Potash Order.

I've provided my edits in each document so they should be easy to see.

The only document that may contain edits other than my own is the Sec Order itself. The reason for that is because BLM wanted to us to what changes were made from the version that was released during the public comment period to what is being proposed right now.

However, I don't think it'd be a problem to see my edits because they are either highlighted in yellow or have comment bubbles (with my signature) next to them.

At this point, I am just waiting for the comment analysis document and the NEPA doc.

If you have any questions, please let me know.

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
Sent: Thursday, October 11, 2012 12:52 PM
To: Burke, Marcilynn; Farquhar, Ned
Cc: Cardinale, Richard
Subject: RE: Potash Order

Sounds good.

As a side note – I didn't mention this previously and I may be stating the obvious, but the reason why BLM submitted the surnaming package in parts is because they wanted to give us early and ample opportunity to review the document(s). They didn't want to wait until all the t's were crossed and i's were dotted, which might result in ASLM having a pressured/limited schedule to review the document. They would like to avoid that.

FYI - Right now it looks like the signing date is scheduled for some time in mid-November.

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

From: Burke, Marcilynn
Sent: Thursday, October 11, 2012 12:29 PM
To: Barlan, Bryce; Farquhar, Ned
Cc: Cardinale, Richard
Subject: Re: Potash Order

I can wait until all of you have completed your review.

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

From: Barlan, Bryce
Sent: Thursday, October 11, 2012 12:26 PM
To: Burke, Marcilynn; Farquhar, Ned
Cc: Cardinale, Richard
Subject: Potash Order

Marcilynn/Ned,

I just wanted you to know that there is one item missing in the surnaming package...the comment analysis document.

The SOL's office is still reviewing the comment analysis document and would like to make further improvements to the document.

(b) (5)

I hope that makes sense.

Included in the surnaming package that we currently have is:

- the briefing paper for DH and the Sec,
- the draft NOA of the comment analysis document, and
- a copy of the Order in a clean and track changes version.

What is missing for our review is the final comment analysis document. The SOLs have said that they anticipate on completing their edits of the comments analysis document before the end of the week. We, then, would receive a copy

of it for official surname. And just so you know, I have a copy of the most recent version of the comment analysis document. However, it does not include SOL edits. If you'd like to see a copy of it, I'd be more than happy to share.

Another document I assume you all will be interested in reviewing is the EA. That, too, should be available by the end of the week.

With that said, I am still going to push forward with my review of what has already been submitted.

Would you all like to do the same or wait until we've received all the documents? I ask only because I will make copies for you if you wish to start your review ASAP.

FYI – Rich and I have had this discussion already so he's aware of our current status.

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

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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

From Barlan, Bryce **Date** Tuesday, June 26, 2012 2:03:00 PM
To Cardinale, Richard; Burke, Marcilynn
Cc Farquhar, Ned
Subject RE: Potash-O&G Secretarial Order - Schedule

And just so you know, I will stay involved the entire time 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

From: Barlan, Bryce
Sent: Tuesday, June 26, 2012 2:01 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

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
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.

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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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Thanks everyone for working hard on this high priority.

DECISION MEMORANDUM FOR THE SECRETARY

FROM: Mike Pool, Acting Director

CC: David Hayes, Deputy Secretary
Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management
Jack Haugrud, Deputy Solicitor

SUBJECT: Proposed Final 2012 Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

I. INTRODUCTION

(b) (5)

II. BACKGROUND

(b) (5)

(b) (5)

III. POSITION of INTERESTED PARTIES

(b) (5)

(b) (5)

(b) (5) N N

IV. DECISION OPTIONS

(b) (5)

(b) (5)

V. RECOMMENDATION

(b) (5)

VI. DECISION BY THE SECRETARY

APPROVE: ___

DISAPPROVE: ___

COMMENTS: ___

_____

Ken Salazar

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. (b) (5)

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.

DRAFT

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~~ [redacted] 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). (b) (5)

(b) (5)

(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.

DRAFT

~~(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.

DRAFT

(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. Upon verification, tThe 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:

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(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.

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(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 Federa(b) (5) 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) ıe 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.

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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 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.

(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~~

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~~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.

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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.

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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:

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4310-VC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO100000, L18200000.XX0000]

Notice of Availability of the Comment Analysis for the 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.

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ADDRESSES: The Comments that were received and the comment analysis are available for review at the following Website: http://www.blm.gov/nm/st/en/info/potash.html. The 2012 Secretary's Order was published in the Federal Register on [INSERT DATE OF PUBLICATION OF THE 2012 SECRETARY'S ORDER IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe. New Mexico, 87508; e-mail: therrell@blm.gov.

SUPPLEMENTARY INFORMATION:

Background

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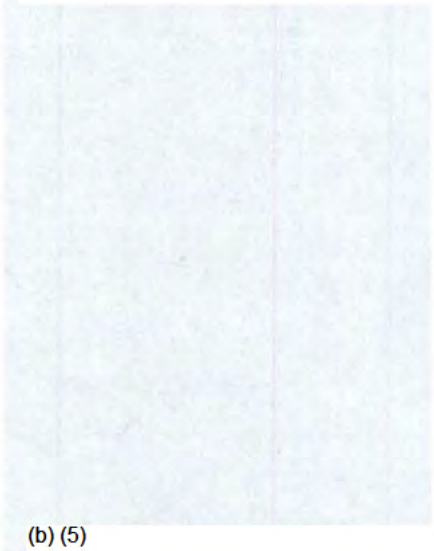

The New 2012 Secretary's Order

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Comments on the Draft Order

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Mike Pool

Acting Director, Bureau of Land Managment

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

Lassiter, Tracie L

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
Attachments: Path forward9.27.2012.docx; Potash - SO -Draft_10.4.12.doc; Comment analysis 10.3.12.docx; NOA for comment analysis10.4.2012.docx; Potash - Secretary briefing paper (9.25.2012)clean.docx

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.

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Thursday, October 04, 2012 11:55 AM
To: Burke, Marcilynn
Subject: Re: Just starting Potash

Not enough time. No clear SOL concern either way. Phil told me BLM could go either way. I will raise it in surnaming. N

----- Original Message -----
From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 11:44 AM
To: Farquhar, Ned
Subject: Re: Just starting Potash

(b) (5)

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

----- Original Message -----
From: Farquhar, Ned
Sent: Thursday, October 04, 2012 11:41 AM
To: Burke, Marcilynn
Subject: Re: Just starting Potash

I have to go back up in 15 minutes but will intensely enjoy every second anyway

----- Original Message -----
From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 11:26 AM
To: Farquhar, Ned
Subject: Just starting Potash

Going to go until 12:30 so you can come join after you make remarks on RRTT.

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

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Thursday, October 04, 2012 11:42 AM
To: Burke, Marcilynn
Subject: Re: Just starting Potash

I have to go back up in 15 minutes but will intensely enjoy every second anyway

----- Original Message -----
From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 11:26 AM
To: Farquhar, Ned
Subject: Just starting Potash

Going to go until 12:30 so you can come join after you make remarks on RRTT.

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

Lassiter, Tracie L

From: Lassiter, Tracie L
Sent: Thursday, October 04, 2012 11:31 AM
To: Burke, Marcilynn; Cunningham, Celina P
Subject: RE: Just starting Potash

Ok.

-----Original Message-----
From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 11:27 AM
To: Lassiter, Tracie L; Cunningham, Celina P
Subject: Fw: Just starting Potash
Importance: High

Please make sure that ned sees this msg

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

----- Original Message -----
From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 11:26 AM
To: Farquhar, Ned
Subject: Just starting Potash

Going to go until 12:30 so you can come join after you make remarks on RRTT.

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

Secretary's Potash Order

Proposed Path Forward

Publish two documents in the Federal Register:

- Secretary's Order
- Notice of Availability of Comments and Comment Analysis

Supporting documents will include a News Release, a Communications Plan, an Information Memorandum, and Environmental Assessment, a Decision Record/Finding of No Significant Impact, and a Decision Memorandum.

Publish information on a New Mexico BLM managed Website:

- All the comments that were received
- The comment analysis

Implementing documents would also be posted and available to the public here. These would include Delegation of Authority Memoranda, Instruction memoranda implementing the order, BLM Manual Sections implementing the Order, and any Handbooks developed to aid administration of the Designated Potash Area.

New Mexico staff will prepared the EA and the DR/FONSI. Washington staff assisted by the Department will prepare the news release and the communications plan (with input from New Mexico). Washington staff will prepare the information Memorandum and the Decision Memorandum.

After signature, the Washington Office will delegate the authority of the Director under the order to the New Mexico State Director with permission to redelegate if warranted. All other implementing documents will be prepared in New Mexico.

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. (b) (5)

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.

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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.~~ (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~~ (b) (5)
(b) (5) he 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.

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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,

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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.

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~~(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.

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(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) (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.

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:

(b) (5)

(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) he 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

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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 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.

(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~~

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~~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.

(b) (5)

(b) (5)

(b) (5)

(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.

(b) (5)

) (5)

)) (5)

(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.

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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.

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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:

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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

Comment Number: 1	**Def.: Co-Development**

Comment Summary: Delete Section 4.d or, at a minimum, the specific language from Section 4.d: "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 support the provision as it could be used to term limit Drilling Islands and provide a vehicle to postpone or delay permits for drilling or mining.

Several commenters suggest that if a definition must be provided, use: "Co-development is the concurrent development of commercial 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 land) simultaneously."

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Manzano, Lea County, McClellan, Chaves County, Eddy County, Coll Brothers, Lynx, HEYCO, PBPA

Analysis:

Accept the JITC's comment to delete the sentence, "Co-development may require that the development of the resources occur at different times and from different places."

- The sentence is not needed as the BLM already has this authority through FLPMA (see definition of "multiple use"). Additional guidance on the "coordinated management of the various resources without permanent impairment of the productivity of the land" will be provided at the implementation stage.
- 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."

(b) (5)

Regulatory Framework:
FLPMA, IBLA 92-612, Draft Secretarial Order

Follow-up Activities:
(b) (5)

Comment Number: 2	**Joint Recommendation- Drilling Islands**

Comment Summary: 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:

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

(1) Drilling within the Designated Potash Area (c) ~~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).
Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA

(b) (5)

Regulatory Framework:
Follow-up Activities:

(b) (5)

Comment Number: 3	**Agreements between Potash and O&G**
Comment Summary: 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.	
Commenter(s): HEYCO	
Analysis:	

(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) (5)

Regulatory Framework:
Follow-up Activities: 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

Comment Number: 4	**Access to Data**

Comment Summary: 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:

(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 ~~owner of the records~~ BLM 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~~.

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.

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA

Analysis:

(b) (5)

Regulatory Framework:
FOIA

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

Comment Number: 5	**"Managing" v. "Limiting" Impacts**
Comment Summary: 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 ***managing*** the impact on potash resources." 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. ***Change the word "limiting" to "managing" in Sections 4.f. and 6.e.(2)(d)(i).***	
Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Lea County, PBPA	
Analysis: (b) (5)	

Regulatory Framework: 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

Comment Number: 6	**Notice to Affected Parties**

Comment Summary: 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:

e. Oil and Gas Drilling

(7) Notice to ~~Potash Lessees~~ Affected Parties. 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 and to the owners of the oil and gas rights and surface owners affected by such application, plan or proposal. A list of ~~current~~ the affected potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan or proposal. 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.

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, PBPA

Analysis:

(b) (5)

Regulatory Framework:

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

Comment Number: 7	**Authorities**

Comment Summary: 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.

Commenter(s): NMOCD, HEYCO

Analysis:
(b) (5)

owned by the United States because the federal government does not have authority to regulate non-federal mineral estates. 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 the cooperation with the non-federal mineral estate owners and the State of New Mexico is necessary and so the provision in section sections 6.e.(4) and (5) establishes a framework to cooperatively work with the State of New Mexico and non-federal mineral estate holders 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 their private interest by way of a drilling island located on Federal land. The Order is written so that this arrangement would be permissible.

(b) (5)

Regulatory Framework:
Mineral Leasing Act, 43 CFR, draft Order Sections 1 and 2.

Follow-up Activities:
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

Comment Number: 8	**Regulatory Conflict**
Comment Summary: 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 NMOCD and BLM regulatory frameworks.	
Commenter(s): NMOCD	
Analysis: The sentence in section 6.e.(5).(b) "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" was carried over verbatim from the 1986 Order on the presumptions that the State of New Mexico still considered this an important element of cooperative relations with the Department of the Interior. The potential conflict identified by the NMOCD is real and has caused Department officials concern in the revision process. Accepting that the State of New Mexico no longer considers this requirement as being an appropriate provision to which Federal lessees must adhere, it will be deleted from the final order. Delete the following language from 6.e.(5).(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.~~	
Regulatory Framework: 1986 Order Section III.E.3.	
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

Comment Number: 9	**Implementation of Order**
Comment Summary: 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; in addition to drilling island and individual well agreements, and management prescriptions regarding leasing and development of both resources.	
Commenter(s): NMOGA	
Analysis: (b) (5)	
Regulatory Framework:	
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

Comment Number: 10	**Order Not Scientifically Based**
Comment Summary: The proposed Order is not scientifically or technically based or supportable. The Secretary should await the imminent completion of valid and tested science, 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.	
Commenter(s): Yates, IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea County, Chaves County, Coll Brothers, Manzano, McClellan, Lynx, Featherstone, Mack Energy	
Analysis:	
Regulatory Framework: Draft Order, Section 7.d; Secretarial Order 3305; Departmental Manual 305 DM 2 and 305 DM 3.	
Follow-up Activities:	

(b) (5)

(b) (5)

(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: 11	**Lack of Concurrent Development**
Comment Summary: 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. The policy has moved to the pre-1951 potash reserve concept. Furthermore, the lack of concurrent development of the resources constitutes a FLPMA violation.	
Commenter(s): Yates, IPANM, Fasken, PBPA, Eddy, EOG, Mewbourne, Hanson, Lea, McClellan, Manzano	
Analysis:	

(b) (5)

(b) (5)

Regulatory Framework: MLA, FLPMA, 43 CFR, JITC comments dated 4/5/12, page 2 of 15.
Follow-up Activities: None.

Comment Number: 12	**Effect on Small Operators**

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 Summary: 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.
Commenter(s): Yates, Fasken, McClellan, Manzano
Analysis:

(b) (5)

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

Comment Number: 13	**Lack of Public Participation**
Comment Summary: 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.	
Commenter(s): Yates, IPANM, HEYCO, Eddy, EOG, Hanson, Mewbourne, Lea, McClellan, Manzano, Strata, Chaves, Coll, Lynx	
Analysis:	

(b) (5)

(b) (5)

Regulatory Framework:
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

Comment Number: 14	**Redraft the Purpose**
Comment Summary: 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: This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), and provides *procedures and guidelines for fostering* more orderly co-development of oil and gas and potash deposits owned by the United States with the Designated Potash Area."	
Commenter(s): Yates	
Analysis: (b) (5)	
Regulatory Framework:	
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

Comment Number: 15	**NEPA**
Comment Summary: 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. 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).)	
Commenter(s): Yates, Lea	
Analysis:	

(b) (5)

Regulatory Framework: 1986 Order; See 43 CFR subparts 3162.1, 3164.1, and 3165.1; BLM form 3100-11, 43 CFR part 3500 and subpart 3190; NEPA.
Follow-up Activities:

(b) (5)

Comment Number: 16	**Def.: Drilling Island**
Comment Summary: Definition is inadequate. Add the following language, originally included in the	

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

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
Analysis:

(b) (5)

Regulatory Framework:
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

Comment Number: 17	**Def.: Indicated and Inferred Resources**
Comment Summary: 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. 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.	
Commenter(s): Yates, IPANM, HEYCO, Fasken, Eddy, Hanson, Mewbourne, EOG, Lynx, McClellan, Manzano	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 18	**Configuration of Buffer Zones**
Comment Summary: 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.	
Commenter(s): Yates	
Analysis: 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 decision-making levels within a Bureau because it limits the discretion of Directors.	

(b) (5)

Regulatory Framework: Departmental Manual (235 DM); BLM Manual (Section 1203); 43 CFR Part 3000
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

Comment Number: 19	**Mapping Process**
Comment Summary: 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.	
Commenter(s): Yates	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 20	**Defacto Withdrawal**
Comment Summary: 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. 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).	
Commenter(s): IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea, McClellan, Manzano, Lynx, PBPA	

(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

Regulatory Framework: MLA, FLPMA, 43 CFR, JITC comments dated 4/5/12, page 2 of 15.	
Follow-up Activities:	
Comment Number: 21	**Unlawful Leasing Restriction**
Comment Summary: 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. 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. There is no similar protection granted, nor should there be, to parties acquiring oil and gas lessees.	
Commenter(s): IPANM, HEYCO, McClellan, Manzano	
Analysis: Section 6.c.(3) states: 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.	

(b) (5)

Regulatory Framework: 173 IBLA 188 CAM Colorado; *Malcolm N.McKinnon,*	
Follow-up Activities:	
Comment Number: 22	**Establishment of Development Areas/ Drilling Islands/Barren Areas**
Comment Summary: 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 *any* 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. Commenters also expressed concern about the ambiguity associated with determining the size and shape of the Development Areas.
Commenter(s): IPANM, HEYCO, McClellan, Manzano, Lynx
Analysis:

(b) (5)

Regulatory Framework:
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

Comment Number: 23	**NM State Legislature Review**
Comment Summary: 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.	
Commenter(s): Dennis Kintigh (State Representative- Chaves, Lincoln & Otero)	
Analysis:	

(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

Regulatory Framework:
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

Comment Number: 24	**General**
Comment Summary: - Please do not allow more oil and gas and potash destruction of Southeast New Mexico. (Jurney) - By this email, we lodge our protest to the rule in complete agreement with the comments you have received from the Chaves County Commissioners. (Coll Brothers Oil) - 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) - Several years ago, Lynx submitted an APD that was protested by Intrepid; Lynx responded with a challenge and after considerable time and money, Lynx prevailed. Concerned that under the new Order, they would not be able to make such a challenge. (Lynx)	
Commenter(s): Charles Jurney, Coll Brothers Oil, Featherstone, Lynx, New Mexico Mining Association	

(b) (5)

Regulatory Framework:

Follow-up Activities:

Comment Number: 25	**Safety**
Comment Summary:	

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

The 1986 Order requires safety determinations to be made on a well by well basis. 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.
Commenter(s): HEYCO, IPANM, Fasken
Analysis: (b) (5)
Regulatory Framework: 1986 Order
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

Comment Number: 26	**Administration of APDs**
Comment Summary: 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).	
Commenter(s): HEYCO, Lea County	
Analysis: (b) (5)	
Regulatory Framework:	
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

Comment Number: 27	**Veto over APDs**
Comment Summary: Giving potash lessees a veto on every APD is defacto unlawful delegation of authority.	
Commenter(s): HEYCO, Yates	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 28	**Challenge Denial of APDs**
Comment Summary: 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.	
Commenter(s): HEYCO, Lynx	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 29	**Inconsistent with Previous Policy**
Comment Summary: 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. Yates and other commenters would like to preserve the enclave policy from the 1986 Order.	
Commenter(s): HEYCO, IPANM, Yates, Fasken, Featherstone, EOG, Mewbourne, Hanson, Eddy County	
Analysis:	

(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) (5)

Regulatory Framework:
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

Comment Number: 30	**Economic Impacts**
Comment Summary: 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 *current* 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. 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 gave a dramatic adverse economic effect to Chaves, Eddy and Lea Counties, the State of New Mexico, and the Federal Government. In addition to lost revenues, Yates and others commented that the draft Order would also result in undue waste of oil and gas resources.	
Commenter(s): HEYCO, IPANM, Yates, Fasken, EOG, Manzano, Eddy, Hanson, Mewbourne, Lea, McClellan, Manzano, Featherstone, PBPA	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Lea County, Chaves County, Eddy County, Coll Brothers, Lynx	
Analysis:	

(b) (5)

Regulatory Framework: FLPMA
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

Comment Number: 32	**Adopt JITC Consensus**
Comment Summary: The DOI/BLM should adopt the JITC recommendations verbatim.	
Commenter(s): Lea County, Chaves County, PBPA	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 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 Assistant 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.	
Commenter(s): EOG, Hanson, Eddy County, McClellan, Manzano	
Analysis: (b) (5)	
Regulatory Framework:	
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

Comment Number: 34	**Biased Technology Requirements**
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.	
Commenter(s): Strata	
Analysis:	

(b) (5)

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.

(b) (5)

Regulatory Framework:
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

Comment Number: 35	**JITC not Representative**
Comment Summary: The JITC is not representative of the oil and gas industry.	
Commenter(s): Strata, Fasken	
Analysis: (b) (5)	
Regulatory Framework:	
Follow-up Activities: 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

Comment Number: 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 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.)	
Commenter(s): Strata	
Analysis: (b) (5) has been the Department's policy to require unitization within the Secretary's Potash Area. Unit Operators may propose, and the BLM may consider, requests for designations of sub-operators for portions of unit agreements or specific horizons. The proposed Order is silent on the issue of sub-operators; it does not preclude approval of sub-operators, nor require termination of currently approved sub-operators. Some horizons may be best developed via vertical wells rather than using horizontal drilling technology. Th(b) (5) Order does not preclude drilling of vertical wells by smaller operators when appropriate. These vertical wells may be co-located within a drilling island for a Development Area. (b) (5)	

Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Strata	
Analysis:	

(b) (5)

The policy is not meant to be restrictive or burdensome; rather it is intended to provide an additional option to the oil and gas lessees.
Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Strata	
Analysis: Since 1951, the Secretary's Order has required the BLM to place stipulations requiring unitization on all oil and gas leases issued in the Secretary's Potash Area. 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. The intent of the proposed Order is to enable the maximum technically feasible development of the oil and gas resources while (b) (5) nanaging 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 potash enclaves, from surface locations that do not penetrate potash enclaves. 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.	

(b) (5)

Regulatory Framework:
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

Comment Number: 39	**Definition of Barren Areas**
Comment Summary: The BLM is not qualified to establish Barren Areas.	
Commenter(s): Mack Energy	
Analysis:	

(b) (5)

Regulatory Framework:
Follow-up Activities:

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4310-VC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO100000, L18200000.XX0000]

Notice of Availability of the Comment Analysis for the 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)

ADDRESSES: The Comments that were received and the comment analysis are available for review at the following Website: http://www.blm.gov/nm/st/en/info/potash.html The final Secretary's Order was published in the Federal Register on [INSERT DATE OF PUBLICATION OF THE ORDER IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe. New Mexico, 87508; e-mail: therrell@blm.gov.

SUPPLEMENTARY INFORMATION:

Background

(b) (5)

(b) (5)

The New Secretary's Order

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Comments on the Draft Order

(b) (5)

(b) (5)

(b) (5)

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: Proposed Final Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

DATE: September 25, 2012

I. INTRODUCTION

(b) (5)

Brief Summary Of Draft Order

(b) (5)

(b) (5)

II. BACKGROUND

Potash is a potassium bearing mineral used primarily for fertilizer. The Carlsbad Mining District has a unique geology that contains potash and oil and gas deposits. Concurrent development of these minerals 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 drill 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 could increase potash operating costs because enhanced ventilation and specialized equipment would be needed to reduce the risk. Thus, because oil and gas and potash are found in the same area, concurrent development has led to 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 interconnected underground mine workings. In addition about 2,500 potash core holes have been drilled within the area.

The Designated Potash Area (DPA) was established by Secretarial Order in 1939 that originally withdrew approximately 43,000 acres from oil and gas leasing and development to protect potash deposits. Exploration by several companies continued after 1939 and the potash area was expanded by a 1951 Order. The 1951 Order also lifted the withdrawal and established concurrent development by the oil and gas, and potash industries. To achieve concurrent development, the 1951 Order, and later Orders in 1965, 1975, and 1986, imposed protective stipulations in new leases issued for both oil and gas, and potash to avoid conflicts as much as possible. The DPA covers a total area of 497,630 acres and includes 350,617 acres of BLM managed surface where leasing of oil and gas and potash occurs.

In 2011, potash and oil and gas companies formed a Joint Industry Technical Steering Committee (JITC) with the objective 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 has recommended that the Secretary update the 1986 Secretary's Order to institute a new method for the BLM's management of orderly co-development of oil and gas and potash within the DPA.

IIV POSITION of INTERESTED PARTIES

About 85% of the oil and gas production in the DPA comes from JITC member companies. Members of the JITC have pledged their mutual cooperation in support of the recommendations they submitted to the Secretary. The JITC members support the issuance of a revised Order. The draft Order is consistent with the key concepts suggested by the JITC. All of the potash lessees are represented on the JITC.

The companies representing the remaining 15% of oil and gas production in the DPA have declined to participate in the JITC. Some of these companies commented that the draft Order would adversely affect the oil and gas industry. The BLM is committed to work with these producers to help them realize benefits from the revision as Drilling Islands give access to leases that cannot be developed under the 1986 Order.

New Mexico Governor Susana Martinez and staff for Senators Bingaman and Udall and Representative Pearce have been briefed by the BLM and the JITC on the possibility of a new Secretary's Order. Industry has briefed Texas Senators Hutchinson and Cornyn and reports that the two Texas Senators are supportive of the JITC recommendations. Tom Bemis, New Mexico Cabinet Secretary for Energy, Minerals, and Natural Resources, and Ray Powell, New Mexico State Land Office Commissioner, have also been briefed by the JITC on the consensus reached by both industries. The BLM has met with the Eddy and Lea County commissions to discuss the proposed final Secretary's Order and the comments they provided to further explain how the BLM would approach the implementation of the Order, were it to be signed by the Secretary.

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Wednesday, October 03, 2012 1:43 PM
To: Burke, Marcilynn
Subject: Fw: Potash Order "co-development" definition

From: Hawbecker, Karen
Sent: Wednesday, October 03, 2012 12:12 PM
To: Farquhar, Ned
Cc: Fugate, Barbara
Subject: RE: Potash Order "co-development" definition

Ned, (b) (5)

–Karen

From: Farquhar, Ned
Sent: Wednesday, October 03, 2012 10:43 AM
To: Hawbecker, Karen
Cc: Fugate, Barbara
Subject: RE: Potash Order "co-development" definition

Thanks. (b) (5)

Thanks,

Ned

From: Hawbecker, Karen
Sent: Tuesday, October 02, 2012 1:51 PM
To: Farquhar, Ned
Cc: Fugate, Barbara
Subject: Potash Order "co-development" definition

Hi Ned,

(b) (5)

(b) (5)

--Karen

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Wednesday, October 03, 2012 10:46 AM
To: Burke, Marcilynn
Subject: FW: Potash Order "co-development" definition

FYI

From: Farquhar, Ned
Sent: Wednesday, October 03, 2012 10:43 AM
To: Hawbecker, Karen
Cc: Fugate, Barbara
Subject: RE: Potash Order "co-development" definition

Thanks. (b) (5)

Thanks,

Ned

From: Hawbecker, Karen
Sent: Tuesday, October 02, 2012 1:51 PM
To: Farquhar, Ned
Cc: Fugate, Barbara
Subject: Potash Order "co-development" definition

Hi Ned,

(b) (5)

(b) (5)

(b) (5)

--Karen

Lassiter, Tracie L

Subject:	Canceled: Potash Order Pre-Brief - (Bridge Line: (b) (5) passcode#(b) (5))
Location:	BLM_WO_MIB_RM5653_Conference_Room
Start:	Tue 10/2/2012 1:00 PM
End:	Tue 10/2/2012 2:00 PM
Show Time As:	Free
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lin, Janet H
Required Attendees:	Allard, Phil; Nedd, Michael D; Herrell, Tony J; Stovall, James K; Juen, Jesse J; Pool, Michael J; Kornze, Neil G; Moran, Jill C; Barlan, Bryce; Burke, Marcilynn; Lassiter, Tracie L; Anderson, Michael D; Farquhar, Ned; Hawbecker, Karen; Cardinale, Richard; Cunningham, Celina P; Umshler, Sue; Smith, Erica C; Sheikh, Usman; Dash, Robert C
Optional Attendees:	Fugate, Barbara; Haugrud, Jack; Walker, Claudia B; Luckey, Lauren
Importance:	High

(Bridge Line: (b) (5) passcode:(b) (5)

This meeting will be a video conference with New Mexico..

Lassiter, Tracie L

Subject:	Canceled: Potash Order Pre-Brief - (Bridge Line: (b) (5) passcode#(b) (5))
Location:	BLM_WO_MIB_RM5653_Conference_Room
Start:	Tue 10/2/2012 1:00 PM
End:	Tue 10/2/2012 2:00 PM
Show Time As:	Free
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lin, Janet H
Required Attendees:	Allard, Phil; Nedd, Michael D; Herrell, Tony J; Stovall, James K; Juen, Jesse J; Pool, Michael J; Kornze, Neil G; Moran, Jill C; Barlan, Bryce; Burke, Marcilynn; Lassiter, Tracie L; Anderson, Michael D; Farquhar, Ned; Hawbecker, Karen; Cardinale, Richard; Cunningham, Celina P; Umshler, Sue; Smith, Erica C; Sheikh, Usman; Dash, Robert C
Optional Attendees:	Fugate, Barbara; Haugrud, Jack; Walker, Claudia B; Luckey, Lauren
Importance:	High

(Bridge Line: (b) (5) passcode:(b) (5))

This meeting will be a video conference with New Mexico..

Lassiter, Tracie L

Subject:	ASLM Potash Briefing - [Bridge Line: (b) (5) pc#(b) (5)]
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Thu 10/4/2012 11:00 AM
End:	Thu 10/4/2012 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Lin, Janet H
Required Attendees:	Allard, Phil; Spielman, Jay R; Nedd, Michael D; Moran, Jill C; Vogt, Vincent N; Herrell, Tony J; Stovall, James K; Juen, Jesse J; Pool, Michael J; Kornze, Neil G; Umshler, Sue; Fugate, Barbara; Haugrud, Jack; Hawbecker, Karen; Burke, Marcilynn; Farquhar, Ned; Cunningham, Celina P; Barlan, Bryce; Cardinale, Richard
Optional Attendees:	Walker, Claudia B; Luckey, Lauren; Brown, Bernadette D; Ellenburg, Diane M; Lassiter, Tracie L; Anderson, Michael D
Importance:	High

[Bridge Line: (b) (5) pc:(b) (5)]

Lassiter, Tracie L

Subject:	ASLM Potash Briefing - [Bridge Line: (b) (5) pc#(b) (5)]
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Thu 10/4/2012 11:00 AM
End:	Thu 10/4/2012 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Lin, Janet H
Required Attendees:	Allard, Phil; Spielman, Jay R; Nedd, Michael D; Moran, Jill C; Vogt, Vincent N; Herrell, Tony J; Stovall, James K; Juen, Jesse J; Pool, Michael J; Kornze, Neil G; Umshler, Sue; Fugate, Barbara; Haugrud, Jack; Hawbecker, Karen; Burke, Marcilynn; Farquhar, Ned; Cunningham, Celina P; Barlan, Bryce; Cardinale, Richard
Optional Attendees:	Walker, Claudia B; Luckey, Lauren; Brown, Bernadette D; Ellenburg, Diane M; Lassiter, Tracie L; Anderson, Michael D
Importance:	High

[Bridge Line: (b) (5) pc(b) (5)]

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Wednesday, September 26, 2012 2:03 PM
To: Burke, Marcilynn
Subject: RE: Potash

(b) (5)

NF

-----Original Message-----
From: Burke, Marcilynn
Sent: Wednesday, September 26, 2012 1:11 PM
To: Farquhar, Ned
Subject: Potash

(b) (5)

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

Lassiter, Tracie L

From: Lin, Janet H
Sent: Tuesday, September 25, 2012 10:22 PM
To: Farquhar, Ned
Cc: Burke, Marcilynn; Cardinale, Richard
Subject: Re: Potash Briefing paper

Hi Ned and Marcilynn: It went up because they required it to schedule the meeting that they decided not to schedule (yes, I meant to say this!). However, since the team is actively working on the comments, the paper is premature and I think we should send up revised docs after the team completes its work. Maybe we just send up the draft final order and comment summary, maybe a new bp based on the work. We can discuss at your briefing? Sound ok?

From: Farquhar, Ned
Sent: Tuesday, September 25, 2012 03:31 PM
To: Lin, Janet H
Cc: Burke, Marcilynn; Cardinale, Richard
Subject: Fw: Potash Briefing paper

Hey janet - the potash briefing paper won't go to David till after the ASLM briefing, right? 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?

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: 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.

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Tuesday, September 25, 2012 5:36 PM
To: Barlan, Bryce; Burke, Marcilynn; Cardinale, Richard; Lin, Janet H
Cc: Lassiter, Tracie L
Subject: Re: Potash Briefing paper

How about 11 or 10 on Thursday the 4th (which apperars 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?

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

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Ugh!

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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.

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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.

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Tuesday, September 25, 2012 5:32 PM
To: Lin, Janet H
Cc: Burke, Marcilynn; Cardinale, Richard
Subject: Fw: Potash Briefing paper

Hey janet - the potash briefing paper won't go to David till after the ASLM briefing, right? 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?

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

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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?

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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.

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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.

Lassiter, Tracie L

From: Barlan, Bryce
Sent: Tuesday, September 25, 2012 5:18 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?

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: 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?

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Subject: RE: Potash Briefing paper

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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.

Lassiter, Tracie L

From: Barlan, Bryce
Sent: Tuesday, September 25, 2012 3:47 PM
To: Burke, Marcilynn; Farquhar, Ned
Subject: FW: Potash Briefing paper
Attachments: Potash - 0&G Proposed Final - Information Memorandum (revised, sent to Dept, 9 25 2012).docx

FYI – Copy of the briefing paper on the Sec Order to be used for ASLM and Dep Sec briefing.

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

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.

Lassiter, Tracie L

From: Barlan, Bryce
Sent: Monday, September 24, 2012 3:32 PM
To: Burke, Marcilynn; Farquhar, Ned
Cc: Cardinale, Richard; Cunningham, Celina P
Subject: Preliminary comments on Potash Order
Attachments: Comments_consolidated.docx

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

Lassiter, Tracie L

From: Cardinale, Richard
Sent: Monday, September 24, 2012 2:37 PM
To: Lassiter, Tracie L
Cc: Burke, Marcilynn; Farquhar, Ned; Anderson, Michael D
Subject: RE: Potash Briefing

Ok. Thanks.

From: Lassiter, Tracie L
Sent: Monday, September 24, 2012 1:57 PM
To: Cardinale, Richard
Cc: Burke, Marcilynn; Farquhar, Ned; Anderson, Michael D
Subject: FW: Potash Briefing

Rich,

Mike was holding next week Wednesday 10/3 for the Potash Briefing. This was not originally scheduled to happen this week. Marcilynn initially requested meeting after her return to the office on 10/3. I was just told by Lauren that Janet conveyed that BLM was not quite ready to conduct this briefing this week. She will call me back after she talks to Janet.

Thanks, Tracie

From: Cardinale, Richard
Sent: Monday, September 24, 2012 11:31 AM
To: Farquhar, Ned; Lassiter, Tracie L
Cc: Burke, Marcilynn
Subject: RE: Potash Briefing

Thanks, Ned.

Tracie,

Would you please contact BLM and arrange to move the potash briefing from 3:00 this Thursday to 4:00 of the same day. Marcilynn's plane doesn't arrive at Dulles until shortly before 3:30. Moving it to 4:00 will enable her to participate via telephone. Also, please add this to Ned's schedule as well. Many thanks.

Rich

From: Farquhar, Ned
Sent: Monday, September 24, 2012 11:28 AM
To: Cardinale, Richard
Subject: Re: Potash Briefing

It's fine. Thanks. N

From: Cardinale, Richard
Sent: Monday, September 24, 2012 11:23 AM
To: Farquhar, Ned
Subject: Potash Briefing

Ned,

There's a potash briefing scheduled this Thursday (9/27) at 3:00. Marcilynn would like to move it to 4:00 as her plane does not get in from Las Vegas until 3:27. She'll participate via phone from the car. She wants to know if you are able to participate in person. You have an Alaska Interagency call on your schedule at 4 P.M. Marcilynn asked me to check with you if that's something you can miss so that you can join us for the potash briefing?

Thanks
Rich

Lassiter, Tracie L

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Cc: Burke, Marcilynn; Farquhar, Ned; Anderson, Michael D
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Thanks, Tracie

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Cc: Burke, Marcilynn
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Thanks

Rich

Lassiter, Tracie L

From: Lassiter, Tracie L
Sent: Monday, September 24, 2012 12:08 PM
To: Cardinale, Richard; Farquhar, Ned
Cc: Burke, Marcilynn; Anderson, Michael D
Subject: RE: Potash Briefing

Ok thanks Rich. TL

From: Cardinale, Richard
Sent: Monday, September 24, 2012 11:31 AM
To: Farquhar, Ned; Lassiter, Tracie L
Cc: Burke, Marcilynn
Subject: RE: Potash Briefing

Thanks, Ned.

Tracie,

Would you please contact BLM and arrange to move the potash briefing from 3:00 this Thursday to 4:00 of the same day. Marcilynn's plane doesn't arrive at Dulles until shortly before 3:30. Moving it to 4:00 will enable her to participate via telephone. Also, please add this to Ned's schedule as well. Many thanks.

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Thanks
Rich

Lassiter, Tracie L

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Cc: Burke, Marcilynn
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Thanks
Rich

INFORMATION MEMORANDUM FOR THE DEPUTY 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: Proposed Final Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

DATE: September 25, 2012

I. INTRODUCTION

(b) (5)

Brief Summary Of Draft Secretary's Order

(b) (5)

(b) (5)

II. BACKGROUND

Potash is a potassium bearing mineral used primarily for fertilizer. The Carlsbad Mining District has a unique geology that contains potash and oil and gas deposits. Concurrent development of these minerals 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 drill 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 could increase potash operating costs because enhanced ventilation and specialized equipment would be needed to reduce the risk. Thus, because oil and gas and potash are found in the same area, concurrent development has led to 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 interconnected underground mine workings. In addition about 2,500 potash core holes have been drilled within the area.

The Designated Potash Area (DPA) was established by Secretarial Order in 1939 that originally withdrew approximately 43,000 acres from oil and gas leasing and development to protect potash deposits. Exploration by several companies continued after 1939 and the potash area was expanded by a 1951 Order. The 1951 Order also lifted the withdrawal and established concurrent development by the oil and gas, and potash industries. To achieve concurrent development, the 1951 Order, and later Orders in 1965, 1975, and 1986, imposed protective stipulations in new leases issued for both oil and gas, and potash to avoid conflicts as much as possible. The DPA covers a total area of 497,630 acres and includes 350,617 acres of BLM managed surface where leasing of oil and gas and potash occurs.

In 2011, potash and oil and gas companies formed a Joint Industry Technical Steering Committee (JITC) with the objective 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 has recommended that the Secretary update the 1986 Secretary's Order to institute a new method for the BLM's management of orderly co-development of oil and gas and potash within the DPA.

IIV POSITION of INTERESTED PARTIES

About 85% of the oil and gas production in the DPA comes from JITC member companies. Members of the JITC have pledged their mutual cooperation in support of the recommendations they submitted to the Secretary. The JITC members support the issuance of a revised Order. The draft Order is consistent with the key concepts suggested by the JITC. All of the potash lessees are represented on the JITC.

The companies representing the remaining 15% of oil and gas production in the DPA have declined to participate in the JITC. Some of these companies commented that the draft Order would adversely affect the oil and gas industry. The BLM is committed to work with these producers to help them realize benefits from the revision as Drilling Islands give access to leases that cannot be developed under the 1986 Order.

New Mexico Governor Susana Martinez and staff for Senators Bingaman and Udall and Representative Pearce have been briefed by the BLM and the JITC on the possibility of a new Secretary's Order. Industry has briefed Texas Senators Hutchinson and Cornyn and reports that the two Texas Senators are supportive of the JITC recommendations. Tom Bemis, New Mexico Cabinet Secretary for Energy, Minerals, and Natural Resources, and Ray Powell, New Mexico State Land Office Commissioner, have also been briefed by the JITC on the consensus reached by both industries. The BLM has met with the Eddy and Lea County commissions to discuss the proposed final Secretary's Order and the comments they provided to further explain how the BLM would approach the implementation of the Order, were it to be signed by the Secretary.

1. **Def.: Co-Development**
   Comment Summary: (b) (5)

2. **Joint Recommendation- Drilling Islands**
   Comment Summary: (b) (5)

3. **Agreements between Potash and O&G**
   Comment Summary: (b) (5)

4. **Access to Data**
   Comment Summary: (b) (5)

(b) (5)

5. **Def.: Development Area**
   Comment Summary: (b) (5)

Change the word "limiting" to "managing" in Sections 4.f. and 6.e.(2)(d)(i).

6. **Notice to Affected Parties**
   Comment Summary: (b) (5)

7. **Authorities**
   Comment Summary: (b) (5)

(b) (5)

8. **Regulatory Conflict**
   Comment Summary: (b) (5)

9. **Implementation of Order**
   Comment Summary: (b) (5)

10. **Order Not Scientifically Based**
    Comment Summary: (b) (5)

11. **Lack of Concurrent Development**
    Comment Summary: (b) (5)

12. **Effect on Small Operators**
    Comment Summary: (b) (5)

(b) (5)

13. Lack of Public Participation
Comment Summary: (b) (5)

r.

14. Redraft the Purpose
Comment Summary: (b) (5)

15. NEPA
Comment Summary: (b) (5)

16. Def.: Drill Island
Comment Summary: (b) (5)

17. Def.: Indicated and Inferred Resources
Comment Summary: (b) (5)

(b) (5)

18. Configuration of Buffer Zones
Comment Summary: (b) (5)

19. Mapping Process
Comment Summary: (b) (5)

20. Defacto Withdrawal
Comment Summary: (b) (5)

21. Unlawful Leasing Restriction
Comment Summary: (b) (5)

22. Establishment of Development Areas/ Drilling Islands/Barren Areas

Comment Summary: (b) (5)

23. NM State Legislature Review

Comment Summary: (b) (5)

24. General

Comment Summary:

(b) (5)

25. Safety

Comment Summary:

(b) (5)

(b) (5)

26. Administration of APDs
Comment Summary: (b) (5)

27. Veto over APDs
Comment Summary: (b) (5)

28. Challenge Denial of APDs
Comment Summary: (b) (5)

29. Inconsistent with Previous Policy
Comment Summary: (b) (5)

30. Economic Impacts
Comment Summary: (b) (5)

31. Coordination with Local Governments
Comment Summary: (b) (5)

32. Adopt JITC Consensus
Comment Summary: (b) (5)

33. Prior Commitment Made by DOI
Comment Summary: (b) (5)

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34. Technology Requirements Unfair
Comment Summary: (b) (5)

35. JITC not Representative
Comment Summary: (b) (5)

36. Designation of Single Operator
Comment Summary: (b) (5)

(b) (5)

37. Cost of Exploratory Work
Comment Summary: (b) (5)

38. Shared Drilling Island
Comment Summary: (b) (5)

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Tuesday, September 11, 2012 3:07 PM
To: Burke, Marcilynn; Cardinale, Richard
Subject: FW: Timeline for the Secretarial Order on Potash
Attachments: Potash Timeline 9 10 12 (3).docx

I wonder if I should get the summaries (due by Sept 20) and then drop and for some rah-rah-rah when the swat team meets the following week? NF

From: Allard, Phil
Sent: Tuesday, September 11, 2012 12:23 PM
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 F; Lin, Janet H; Herrell, Tony J; Juen, Jesse J; Wells, Steven
Subject: Timeline for the Secretarial Order on Potash

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

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.

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Wednesday, August 22, 2012 11:46 AM
To: Burke, Marcilynn; Klein, Elizabeth A; Pool, Michael J; Kornze, Neil G; Davis, Laura; Lee-Ashley, Matt
Subject: Yates Petroleum on potash order

Yates Petroleum has submitted extensive comments opposing the new potash order. In the comments, (b) (5)

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

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

From Lin, Janet H **Date** Friday, July 06, 2012 2:53:55 PM
To dailybriefingbinder; Lane, Kenneth
Cc Cardinale, Richard; Embil, Nana Efua; Allard, Phil; Kornze, Neil G; Pool, Michael J; Burke, Marcilynn; Boddington, Celia; Iudicello, Fay; Lawyer, Mark; Haugrud, Jack
Subject Re: Potash - O&G Briefing Materials

Correction - the draft Order is still being reviewed in the Dept.

From: Lin, Janet H
Sent: Friday, July 06, 2012 10:29 AM
To: dailybriefingbinder@ios.doi.gov <dailybriefingbinder@ios.doi.gov>; Lane, Kenneth
Cc: Cardinale, Richard; Embil, Nana Efua; Allard, Phil; Kornze, Neil G; Pool, Michael J; Burke, Marcilynn; Boddington, Celia; Iudicello, Fay; Lawyer, Mark; Haugrud, Jack
Subject: Potash - O&G Briefing Materials

Hi there. Everything is on track. PDF version of draft Secretarial Order is to be sent to the tribes on Monday. NOA has been sent to the Federal Register for publication on Friday, July 13, with availability at the desk on Thursday, July 12.

Thank you all.

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

From Lin, Janet H **Date** Friday, July 06, 2012 2:53:55 PM
To dailybriefingbinder; Lane, Kenneth
Cc Cardinale, Richard; Embil, Nana Efua; Allard, Phil; Kornze, Neil G; Pool, Michael J; Burke, Marcilynn; Boddington, Celia; Iudicello, Fay; Lawyer, Mark; Haugrud, Jack
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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)

Lassiter, Tracie L

Subject: 1:00pm-2:00pm: Potash Meeting (Staff: David Hayes, Laura Davis, Bob Abbey, Hilary Tompkins Ned Farquhar, Marcilynn Burke, and Jack Haugrud)
Location: Office of the Secretary

Start: Tue 5/1/2012 1:00 PM
End: Tue 5/1/2012 2:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: (b) (6)
Required Attendees: Davis, Laura; Hayes, David; Lane, Kenneth; Lee-Ashley, Matt; Adams, Gail A; Mansour, Christopher; Embil, Nana Efua; Sisk, Jennifer R; Walker, Claudia B; Marsters, Lizzie; Abbey, Robert V; Padilla, Joan; Fink, Jason M; Iacobucci, Francis R; Kornze, Neil G; Tompkins, Hilary C; Haugrud, Jack; Burke, Marcilynn; Farquhar, Ned; Downs, Michael F; Herrell, Tony J; Stovall, James K

When: Tuesday, May 01, 2012 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Office of the Secretary

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

Participants:
John Smitherman, Vice President of Operations, BOPCO LP
Robert Ready, Regulatory Manger, Concho Resources Incorporated
James Brown, Attorney-in-Fact, Yates Petroleum Corporation
John Merson, Senior Manager, Sandia National Laboratories
Dan Moorehouse, Mine Engineering Superintendent, Mosaic Potash Int
Don Purvis, Vice President, Mosaic Potash Int
Chad Johnson, Regional Engineering Manger, Cimerex Energy Company
John Mansanti, Vice President of Operations, Intrepid Potash Incorporated
Randy Bolles, Manager of Regulatory Affairs, Devon Energy Corporation
Eileen Dey, Regulatory Manager, MCBU, Conoco Phillips
Kevin Ryan, Director of Technical Services, Intrepid Potash Incorporated
Keith Sevin, Regulatory Manager, Occidental Oil and Gas Corp
Suzanne Holland, Legislative and Regulatory Advocacy Advisor, Chevron Inc
Tony Herrell
James (Jim) Stovall

Lassiter, Tracie L

Subject:	Departmental Briefing on Potash-OG draft Secretarial Order (VTC w/NM) Bridge# (b) (5) code (b) (5)
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Mon 7/2/2012 1:00 PM
End:	Mon 7/2/2012 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Lin, Janet H
Required Attendees:	Hayes, David; Lee-Ashley, Matt; Davis, Laura; Marsters, Lizzie; Farquhar, Ned; Burke, Marcilynn; Cardinale, Richard; Klein, Elizabeth A; Belin, Letty; Allard, Phil; Lin, Janet H; 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
Optional Attendees:	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

Lassiter, Tracie L

Subject:	ASLM Potash Briefing - [Bridge Line: (b) (5) pc#(b) (5)
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Thu 10/4/2012 11:00 AM
End:	Thu 10/4/2012 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Lin, Janet H
Required Attendees:	Allard, Phil; Spielman, Jay R; Nedd, Michael D; Moran, Jill C; Vogt, Vincent N; Herrell, Tony J; Stovall, James K; Juen, Jesse J; Pool, Michael J; Kornze, Neil G; Umshler, Sue; Fugate, Barbara; Haugrud, Jack; Hawbecker, Karen; Burke, Marcilynn; Farquhar, Ned; Cunningham, Celina P; Barlan, Bryce; Cardinale, Richard
Optional Attendees:	Walker, Claudia B; Luckey, Lauren; Brown, Bernadette D; Ellenburg, Diane M; Lassiter, Tracie L; Anderson, Michael D
Importance:	High

[Bridge Line: (b) (5) pc#(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

From Hawbecker, Karen **Date** Thursday, July 05, 2012 11:46:19 AM
To Burke, Marcilynn
Cc Cardinale, Richard
Subject Fw: pdf of fed reg notice and potash order 070312

Potash order 070312 surname thru sol hct.pdf (2.3 MB HTML) **potash fed reg notice surnamed thru sol hct 070312.pdf** (842 KB HTML)

Marcilynn (b) (5) il. --Karen

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)

. --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, (b) (5) k. Thank you. --Karen

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

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.

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 (b) (5) extending outward a certain distance from operating oil or gas well(s) or es... 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. (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. 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. (b) (5) (b) (5) (b) (5)

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 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) 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) 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.

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 (b) (5) Four exceptions to this policy will be permitted under the following conditions:

(a) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or

(b) if the drilling will occur from a Drilling Island established under a prior Order; or

(c) if the drilling will occur from a Barren Area if the Authorized Officer determines that such operations will not adversely affect active or planned mining operations in the immediate vicinity of the proposed drill-site; or

(d) if the drilling will occur from a Drilling Island, not covered by (a) or (b) above, or from 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).

(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 proposal, 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. A Development Area (b) (5) may include federal oil and gas leases and other federal lands.

(b) After designating or modifying a Development Area, th Notice to Lessees, consistent with its authorities under 3105 and part 3180, informing lessees that future drillir an oil and gas lease within that Development Area will: 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 (b) (5) vailable 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 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.

(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, (b) (5) ulemaking,

notices to lessees, and orders of the Authorized Officer.

d. The BLM will obtain and use the best science available when administering this Order (b) (5) 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. (b) (5)

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 other interested parties.

(b) (5)

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.

BLM

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.

DMR-SOL by Harvey Blair July 2, 2012 SOL-DMR K. Hawkins July 2, 2012 7/3/2012

Surname Version of 06/29/2012 11:00 AM 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.

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;
- 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. 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

From Lin, Janet H **Date** Friday, July 06, 2012 12:29:50 PM
To dailybriefingbinder; Lane, Kenneth
Cc Cardinale, Richard; Embil, Nana Efua; Allard, Phil; Kornze, Neil G; Pool, Michael J; Burke, Marcilynn; Boddington, Celia; Iudicello, Fay; Lawyer, Mark; Haugrud, Jack
Subject Potash - O&G Briefing Materials

Potash - Oil and Gas brf (Briefing paper, 7-6-12, briefing book).docx (29 KB HTML) **Potash - O&G NOA.doc (surname version, sent to Fed Reg, 7-6-12).docx** (39 KB HTML

Hi there. Everything is on track. PDF version of draft Secretarial Order is to be sent to the tribes on Monday. NOA has been sent to the Federal Register for publication on Friday, July 13, with availability at the desk on Thursday, July 12.

Thank you all.

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

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)

4310-VC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM910000 L13100000.EJ0000]

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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

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) 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.

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 (b) (5) Four exceptions to this policy will be permitted under the following conditions:

(a) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or

(b) if the drilling will occur from a Drilling Island established under a prior Order; or

(c) if the drilling will occur from a Barren Area if the Authorized Officer determines that such operations will not adversely affect active or planned mining operations in the immediate vicinity of the proposed drill-site; or

(d) if the drilling will occur from a Drilling Island, not covered by (a) or (b) above, or from 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).

(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 proposal, 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. A (b) (5) may include federal oil and gas leases and other federal lands.

(b) After designating or modifying a Development Area, th Notice to Lessees, consistent with its authorities under 3105 and part 3180, informing lessees that future drillir an oil and gas lease within that Development Area will: 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 th (b) (5) vailable oil and gas drilling and production technology in the Per..... 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 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.

(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 (b) (5) 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. (b) (5)

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 a other interested parties.

f. The BLM will develop appropriate time-frame guidelines and requirements, a 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;
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.

BLM

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.

Surname Version of 06/29/2012 11:00 AM 4310-VC

DMR-SOL by Harvey Blair July 2, 2012 SOL-DMR K. Hawkins July 2, 2012 7/3/2012

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;
- 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. 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.

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 oi(b) (5) is 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

(1) Drilling within the Designated Potash Area.

(b) (5)

(b) (5)

(2) Development Areas.

(b) (5)

(a

(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.

(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,

Internal Review Draft

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.

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(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. (b) (5)

(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. In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including, where necessary or advisable, 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.

Internal Review Draft

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.

Internal Review Draft

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 **Date** Tuesday, July 03, 2012 11:57:18 AM

To Burke, Marcilynn

Cc

Subject Out of Office: Potash-OG Secretarial Order_to ASLM_july2

After July 2 I will be out of the office on (b) (6)
If you have an urgent issue or concern, please feel free to email or call the Chief of Staff on our hallway, Richard Cardinale, available at 202 208 6734, or at richard_cardinale@ios.doi.gov. Thank you, Ned Farquhar

From Cardinale, Richard **Date** Tuesday, July 03, 2012 6:14:21 PM
To Hawbecker, Karen
Cc Pollet, Jolie; Barlan, Bryce; Burke, Marcilynn
Subject Re: pdf of fed reg notice and potash order 070312

Many thanks, Karen.

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, (b) (5)

Thank you. --Karen

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 Hawbecker, Karen **Date** Thursday, July 05, 2012 6:50:01 AM
To Burke, Marcilynn
Cc
Subject Out of Office: pdf of fed reg notice and potash order 070312

I will be away from the office July 5-6 and 9-10, and returning on Wednesday, July 11. I will respond to your email after I return to the office. Thank you.

From Cardinale, Richard **Date** Thursday, July 05, 2012 7:12:34 AM
To Burke, Marcilynn
Cc
Subject FW: pdf of fed reg notice and potash order 070312

Potash order 070312 surname thru sol hct.pdf (2.3 MB HTML) **potash fed reg notice surnamed thru sol hct 070312.pdf** (842 KB HTML)

Once more, with feeling...

From: Hawbecker, Karen
Sent: Tuesday, July 03, 2012 5:25 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, (b) (5) Thank you. --Karen

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

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.

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; (b) (5)) 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. (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. 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. (b) (5) (b) (5) 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 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) 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) 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.

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 (b) (5) and gas wells from surface locations within the Designated Potash Area [illegible] four exceptions to this policy will be mitted under the following conditions:

(a) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or

(b) if the drilling will occur from a Drilling Island established under a prior Order; or

(c) if the drilling will occur from a Barren Area if the Authorized Officer determines that such operations will not adversely affect active or planned mining operations in the immediate vicinity of the proposed drill-site; or

(d) if the drilling will occur from a Drilling Island, not covered by (a) or (b) above, or from 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).

(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 proposal, 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. A [illegible] (b) (5) may include federal oil and gas leases and other federal lands.

(b) After designating or modifying a Development Area, t
Notice to Lessees, consistent with its authorities under
3105 and part 3180, informing lessees that future drilli
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 (b) (5) 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 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.

(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, (b) (5) rulemaking, (b) (5)

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. (b) (5)

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.

(b) (5)

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.

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secs. 1 and 2;
secs 11 to 15, inclusive;
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secs. 1 to 5, inclusive;
secs, 10 to 15, inclusive;
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secs. 34 to 36, inclusive.

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

secs. 19 to 36, inclusive.

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secs. 1 to 17, inclusive;
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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.

BLM

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.

Surname Version of 06/29/2012 11:00 AM 4310-VC

DMR-SOL by Harvey Blair July 2, 2012 SOL-DMR K. Hawkins July 2, 2012 7/3/2012

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;
- 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. 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.

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Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

DMR-SOL by Harvey Blair July 2, 2012 SOL-DMR K. Hawkins July 2, 2012 7/3/2012

Surname Version of 06/29/2012 11:00 AM 4310-VC

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Bureau of Land Management

[LLNM910000 L13100000.EJ0000]

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Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

From Barlan, Bryce **Date** Thursday, July 05, 2012 8:10:03 AM
To Burke, Marcilynn
Cc Cardinale, Richard; Pollet, Jolie
Subject Fw: pdf of fed reg notice and potash order 070312

Potash order 070312 surname thru sol hct.pdf (2.3 MB HTML) **potash fed reg notice surnamed thru sol hct 070312.pdf** (842 KB HTML)

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

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, (b) (5) . Thank you. –Karen

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

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.

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, and (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. (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. 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).

(b) (5)

(b) (5)

(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) 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) 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.

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 (b) (5) four exceptions to this policy will be permitted under the following conditions:

(a) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or

(b) if the drilling will occur from a Drilling Island established under a prior Order; or

(c) if the drilling will occur from a Barren Area if the Authorized Officer determines that such operations will not adversely affect active or planned mining operations in the immediate vicinity of the proposed drill-site; or

(d) if the drilling will occur from a Drilling Island, not covered by (a) or (b) above, or from 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).

(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 proposal, 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. A (b) (5) may include federal oil and gas leases and other federal lands.

(b) After designating or modifying a Development Area, th Notice to Lessees, consistent with its authorities under 3105 and part 3180, informing lessees that future drilli 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 (b) (5) vailable 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 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.

(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, [redacted] (b) (5) [redacted] ılemaking,

notices to lessees, and orders of the Authorized Officer.

d. The BLM will obtain and use the best science available when administering this Orde(b) (5) consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The L... 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. (b) (5)

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 a other interested parties.

(b) (5)

f. The BLM will develop appropriate time-frame guidelines and requirements, a 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~~ 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.

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

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.

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 operation (b) (5)) 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. (b) (5) (b) (5) (b) (5) -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 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

Lassiter, Tracie L

Subject:	BLM Briefing on Potash-OG Draft Secretarial Order Mtg/VTC and [Bridge#(b) (5) code (b) (5)]
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Thu 6/28/2012 4:00 PM
End:	Thu 6/28/2012 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lin, Janet H
Required Attendees:	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
Optional Attendees:	Boddington, Celia; Leff, Craig S; Luckey, Lauren; Walker, Claudia B; Harris, Maritiza T; Ellenburg, Diane M; Sheikh, Usman; Smith, Erica C

VTC w/New Mexico

From Pollet, Jolie **Date** Wednesday, June 27, 2012 3:55:52 PM
To Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard
Cc Barlan, Bryce
Subject FW: Potash - O&G Draft Secretarial Order

Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc (110 KB HTML) **Potash-OG.doc (schedule, 6-25-12).docx** (19 KB HTML)

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:

(b) (5)

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)

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.

c. Buffer Zone - (b) (5)

Internal Review Draft

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 -(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.

(a) (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.

(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

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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 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.

(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 consultationand 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, (b) (5) 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;

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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.,

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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.

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.

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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 Cardinale, Richard **Date** Wednesday, June 27, 2012 3:59:34 PM
To Farquhar, Ned; Burke, Marcilynn
Cc
Subject Fw: Potash - O&G Draft Secretarial Order

Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc (110 KB HTML) **Potash-OG.doc (schedule, 6-25-12).docx** (19 KB HTML)

Spoke to Janet this morning. (b) (5)

From: Pollet, Jolie
Sent: Wednesday, June 27, 2012 03:55 PM
To: Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard
Cc: Barlan, Bryce
Subject: FW: Potash - O&G Draft Secretarial Order

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 JTTC 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 3rd, 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)

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.

c. Buffer Zone - (b) (5)

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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.

f. Development Area - (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

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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.

(a) (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.

(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

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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 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.

(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

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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 consultationand 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, (b) (5) , 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;

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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.,

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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.

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.

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Internal Review Draft

From Barlan, Bryce **Date** Wednesday, June 27, 2012 4:44:54 PM
To Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard
Cc
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
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: 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

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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:

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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 Cardinale, Richard **Date** Wednesday, June 27, 2012 5:30:31 PM
To Barlan, Bryce; Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned
Cc
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
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Bureau of Land Management
U.S. Department of the Interior
202-208-3801 (o)
202-341-9419 (c)

From Pollet, Jolie **Date** Wednesday, June 27, 2012 5:40:36 PM
To Cardinale, Richard; Barlan, Bryce; Burke, Marcilynn; Farquhar, Ned
Cc Ishee, Mary K
Subject RE: Potash - O&G Draft Secretarial Order

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Jolie

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Bureau of Land Management

U.S. Department of the Interior
202-208-3801 (o)
202-341-9419 (c)

From Pollet, Jolie **Date** Wednesday, June 27, 2012 6:43:49 PM
To Burke, Marcilynn
Cc
Subject potash

Potash-OG Secretarial Order (surname version 2012 6 27)_jp.doc (115 KB HTML)

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

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

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.

(b) (5)

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.

(b) (5)

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.

c. Buffer Zone - (b) (5)

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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.

f. Development Area - (b) (5)

(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. (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

(b) (5)

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)

(b) (5)

(2) Development Areas.

(a) (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: (b) (5)

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

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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 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.

(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

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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 consultationand 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) (5)

(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. (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.

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, (b) (5) , 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. (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; (b) (5)
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; (b) (5)
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;

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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.,

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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.

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

(b) (5)

Internal Review Draft

Lassiter, Tracie L

From: Farquhar, Ned
Sent: Thursday, June 28, 2012 3:52 PM
To: Burke, Marcilynn; Pollet, Jolie; Barlan, Bryce
Subject: FW: DRAFT DOCUMENTS FOR THE BLM Briefing on Potash-OG Draft Secretarial Order Mtg/VTC and [Bridge# (b) (5) code (b) (5)

This message has been archived. View the original item
Attachments:

Potash-OG.doc (schedule, 6-28-12).docx	(22 KB)
Potash - O&G NOA.doc (surname version, 6-28-12).docx	(39 KB)
Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc	(108 KB)
Potash - Oil and Gas brf (Briefing paper, with surname package, 6-28-12).docx	(24 KB)
Potash - OG NOA doc (surname version 6-28-12) nf.docx	(40 KB)

From Farquhar, Ned **Date** Thursday, June 28, 2012 3:52:06 PM
To Burke, Marcilynn; Pollet, Jolie; Barlan, Bryce
Cc
Subject FW: DRAFT DOCUMENTS FOR THE BLM Briefing on Potash-OG Draft Secretarial Order Mtg/VTC and [Bridge#&(b) (5) 1 code (b) (5)

Potash-OG.doc (schedule, 6-28-12).docx (22 KB HTML)
Potash - O&G NOA.doc (surname version, 6-28-12).docx (39 KB HTML)
Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc (108 KB HTML) **Potash - Oil and Gas brf (Briefing paper, with surname package, 6-28-12).docx** (24 K

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

From: Lin, Janet H
Sent: Thursday, June 28, 2012 3:33 PM
To: Komze, 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)

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

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.

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;
- 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. 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 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 ofboth the oil and gas industry and the potash industry has recently improved. All of these factors together have ledgreater 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.

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

From Farquhar, Ned **Date** Thursday, June 28, 2012 5:30:10 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)

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 **Date** Friday, June 29, 2012 10:20:52 AM
To Cardinale, Richard; Ishee, Mary K
Cc Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned
Subject Re: Potash SO

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

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)

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 Lin, Janet H **Date** Friday, June 29, 2012 5:09:44 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)

Potash-OG.doc (schedule, 6-28-12).docx (22 KB HTML)
Potash - O&G NOA.doc (surname version, 6-29-12).docx (39 KB HTML)
Potash - Oil and Gas brf (Briefing paper, with surname package, 6-29-12).docx (28 KB HTML) Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc (108 K

<<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>>

-----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) :ode(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

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

Surname Version of 06/29/2012 11:00 AM **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.

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;
- 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. 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,

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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

From Farquhar, Ned **Date** Monday, July 02, 2012 9:46:30 AM
To Pool, Michael J
Cc Burke, Marcilynn
Subject Potash - Secretary or Deputy Secretary briefings

Mike –

Can you be sure to let us knowwhen the Secretary or David schedules any potash briefing? We should be sure Marcilynn gets an invitation. And again, congratulations to BLM on this momentous progress.
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 Farquhar, Ned **Date** Monday, July 02, 2012 5:53:15 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 Haugrud, Jack **Date** Monday, July 02, 2012 5:58:58 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 Pollet, Jolie **Date** Monday, July 02, 2012 6:26:58 PM
To Burke, Marcilynn
Cc Farquhar, Ned; Barlan, Bryce; Cardinale, Richard
Subject Potash-OG Secretarial Order_to ASLM_july2

Potash-OG Secretarial Order_to ASLM_july2.docx (63 KB HTML)

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

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

(b) (5)

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.

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Internal Review Draft

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 (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

From Lin, Janet H **Date** Wednesday, June 27, 2012 11:41:36 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

Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc (110 KB HTML) **Potash-OG.doc (schedule, 6-25-12).docx** (19 KB HTML)

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 3rd, 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)

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.

Internal Review Draft

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.

(b) (5)

f.

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

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(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) (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.

(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 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.

(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 consultationand 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, (b) (5) 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;

Internal Review Draft

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.,

Internal Review Draft

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

Internal Review Draft

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 Cardinale, Richard **Date** Wednesday, June 27, 2012 11:40:13 AM
To Burke, Marcilynn; Farquhar, Ned
Cc Ishee, Mary K
Subject Potash Draft Secretarial Order

I just got a call from Janet about the above-reference SO. BLM is working to finalize the order and plans to brief senior management at 4 PM tomorrow. They will be inviting Ned to join them, but would be willing to do a separate ASLM briefing. The problem lies with the fact that a briefing for KLS has been scheduled for July 2nd at 4 PM. Apparently, he plans to make an announcement on July 11 and BLM needs to get the draft order to the FR by the 9th.

Jolie and Bryce have been reviewing an early draft. We should discuss impressions with them as I understand that they spent considerable time with Phil Allard yesterday reviewing the order.

From Pollet, Jolie **Date** Tuesday, June 26, 2012 5:51:17 PM
To Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard
Cc Barlan, Bryce; Mouritsen, Karen E
Subject Potash Order - surname update

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 **Date** Tuesday, June 26, 2012 2:09:03 PM
To Burke, Marcilynn; Cardinale, Richard
Cc Farquhar, Ned
Subject RE: Potash-O&G Secretarial Order - Schedule

Thanks Marcilynn.

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

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

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

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
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.

From Barlan, Bryce **Date** Tuesday, June 26, 2012 2:03:00 PM
To Cardinale, Richard; Burke, Marcilynn
Cc Farquhar, Ned
Subject RE: Potash-O&G Secretarial Order - Schedule

And just so you know, I will stay involved the entire time 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

From: Barlan, Bryce
Sent: Tuesday, June 26, 2012 2:01 PM
To: Cardinale, Richard; Burke, Marcilynn
Cc: Farquhar, Ned
Subject: RE: Potash-O&G Secretarial Order - Schedule

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Fax: 202-208-6243
bbarlan@blm.gov

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Sent: Tuesday, June 26, 2012 9:51 AM
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Subject: Fw: Potash-O&G Secretarial Order - Schedule

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From Barlan, Bryce **Date** Tuesday, June 26, 2012 2:01:11 PM
To Cardinale, Richard; Burke, Marcilynn
Cc Farquhar, Ned
Subject RE: Potash-O&G Secretarial Order - Schedule

Rich,

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US Department of the Interior
Office: 202-208-4114
Fax: 202-208-6243
bbarlan@blm.gov

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Sent: Tuesday, June 26, 2012 9:51 AM
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Thanks everyone for working hard on this high priority.

Lassiter, Tracie L

Subject:	Departmental Briefing on Potash-OG draft Secretarial Order (VTC w/NM) Bridge# (b) (5) code (b) (5)
Location:	BLM_WO_MIB_RM5071_Conference_Room
Start:	Mon 7/2/2012 1:00 PM
End:	Mon 7/2/2012 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Lin, Janet H
Required Attendees:	Hayes, David; Lee-Ashley, Matt; Davis, Laura; Marsters, Lizzie; Farquhar, Ned; Burke, Marcilynn; Cardinale, Richard; Klein, Elizabeth A; Belin, Letty; Allard, Phil; Lin, Janet H; 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
Optional Attendees:	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

Lassiter, Tracie L

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From Interior News **Date** Thursday, January 05, 2012 2:27:36 PM
To
Cc
Subject Secretary Salazar, BLM Director Abbey Applaud Efforts of Potash/Oil and Gas Industry Working Group During New Mexico Visit

image003.png (39 KB HTML)

Date: January 5, 2012
Contact: Adam Fetcher (DOI) 202-208-6416
Donna Hummel (BLM) 505-954-2019

Secretary Salazar, BLM Director Abbey Applaud Efforts of Potash/Oil and Gas Industry Working Group During New Mexico Visit

CARLSBAD, N.M.—Secretary of the Interior Ken Salazar, U.S. Senator Jeff Bingaman, and Bureau of Land Management Director Bob Abbey today toured a potash mine near Carlsbad, New Mexico and met with members of the Potash/Oil and Gas Industry Working Group during a visit to learn more about the ongoing dialogue between the oil and gas industry, potash industry and the BLM to promote concurrent, orderly, and safe mineral development within the Secretary's Potash Area (SPA).

The Working Group, co-chaired by a Vice President from Intrepid Potash and a Vice President from BOPCO Oil Company, is part of a comprehensive strategy to overcome decades of disagreements and litigation between the two industries. The goal of the group is to improve the relationship between the industries, to promote a healthy discussion of the issues, and provide direction towards co-development of the SPA, an area rich in both potash and oil and gas minerals.

"I appreciate the Working Group's efforts to tackle the complex issues in the SPA so that we can continue to support our nation's agriculture and energy needs, and create jobs in New Mexico," said Secretary Salazar. "With the two industries jointly working on the issues, I am confident that we can reach commonsense solutions that promote safe development of the resources."

"Over the past few years, the oil and gas and potash industries have been working together to identify mutually agreeable areas for development," said Senator Bingaman. "I look forward to continuing to work with both industries to preserve potash reserves while promoting the development of oil and gas resources in the region."

During the meeting, the Working Group discussed issues associated with concurrent development within the SPA, including safety issues and special drilling techniques. Salazar, Bingaman, and

Abbey also heard about a proposal to extract potash remaining in inactive underground mine workings through the use of solution mining methods.

"Collaboration between the BLM and leading stakeholders is the key to resolving potash-related issues," said BLM Director Abbey. "I commend the Working Group for doing its utmost to find common ground for the common good."

SPA accounts for 75 percent of domestic potash production and is home to almost 800 federal oil and gas leases. Potash is a trade name for potassium bearing minerals used for fertilizer.

###

From (b) (6) **Date** Friday, January 06, 2012 1:47:33 PM

To Abbey, Robert V

Cc Hayes, David; Davis, Laura; Lee-Ashley, Matt; Burke, Marcilynn; Padilla, Joan; Lane, Kenneth; Fetcher, Adam K; Gilbert Alan

Subject Potash-Oil and Gas

Bob,
Thank you for joining me in Carlsbad on this subject. I think we had an excellent meeting. We can end this 30 year dispute. For New Mexico and the nation, it means jobs created from potash mining and responsible oil and gas development. These are key to our economic security and national security.

I look forward to the proposed modifications to the Secretarial Order by April 1. Thank you.

Ken Salazar

Sent from my iPad

From Farquhar, Ned **Date** Monday, April 23, 2012 11:31:48 AM
To Burke, Marcilynn
Cc
Subject potash meeting

KLS meeting on potash scheduled for 5/1. Will discuss potential changes to Sec Order. I have been involved in this and have asked BLM to keep me informed. OK if I ask Laura if I may be included in the meeting? Thanks, N

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

From Farquhar, Ned **Date** Tuesday, April 24, 2012 2:00:14 PM
To Davis, Laura
Cc Burke, Marcilynn
Subject potash

Laura – Marcilynn and I were wondering if we could be included in any potash briefing/meeting related to the proposed changes to the Secretarial Order. Is there an issue closer to our hearts? Thanks, N

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

From Davis, Laura **Date** Thursday, April 26, 2012 3:32:40 PM
To Burke, Marcilynn; Farquhar, Ned
Cc Padilla, Joan
Subject Potash

I missed an email earlier this week on this. You are both more than welcome to join next week's meeting.
I've cc'd Joan to get you looped in.
Laura

From Lin, Janet H **Date** Monday, April 30, 2012 2:50:28 PM

To Fink, Jason M; Lane, Kenneth

Cc Burke, Marcilynn; Marsters, Lizzie; Cardinale, Richard; Hayes, David; Kornze, Neil G; Haugrud, Jack; Abbey, Robert V; Lee-Ashley, Matt; Tompkins, Hilary C; Hawbecker, Karen

Subject Potash and Oil and Gas Informational Memorandum

Potash-OG.doc (Information Memo, 4-30-12, FINAL).docx (36 KB HTML)

Jason and Ken:

Attached is the Info Memo for the Potash/Oil and Gas meeting with industry tomorrow. I have cc:ed those on the memo.

Let us know if you need anything else.

Thanks.

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

INFORMATION MEMORANDUM FOR THE SECRETARY

April 30, 2012

FROM: Robert V. Abbey, Director, Bureau of Land Management
Jack Haugrud, Deputy Solicitor

CC: David J. Hayes, Deputy Secretary
Hilary Tompkins, Solicitor
Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management

SUBJECT: Secretary's Potash Area – Meeting with potash and oil and gas industry representatives

I. INTRODUCTION

(b) (5)

II. BACKGROUND

(b) (5)

(b) (5)

III. OVERVIEW OF JITC RECOMMENDATIONS AND ISSUES PRESENTED BY THE JITC CONCEPTS

(b) (5)

A. Impacts to Existing Lessees

- (b) (5)

(b) (5)

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-
-

B. High Economic Costs

- (b) (5)
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C. Required State Action

- (b) (5)

D. Procedural Requirements

- (b) (5)
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(b) (5)

-
-

IV. POSITION OF INTERESTED PARTIES

(b) (5)

V. PROPOSED NEXT STEPS

(b) (5)

ATTACHMENT 1

Issues for discussion at separate meeting among JITC, BLM and SOL

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(b) (5)

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Lassiter, Tracie L

Subject:	1:00pm-2:00pm: Potash Meeting (Staff: David Hayes, Laura Davis, Bob Abbey, Hilary Tompkins Ned Farquhar, Marcilynn Burke, and Jack Haugrud)
Location:	Office of the Secretary
Start:	Tue 5/1/2012 1:00 PM
End:	Tue 5/1/2012 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	(b) (6)
Required Attendees:	Davis, Laura; Hayes, David; Lane, Kenneth; Lee-Ashley, Matt; Adams, Gail A; Mansour, Christopher; Embil, Nana Efua; Sisk, Jennifer R; Walker, Claudia B; Marsters, Lizzie; Abbey, Robert V; Padilla, Joan; Fink, Jason M; Iacobucci, Francis R; Kornze, Neil G; Tompkins, Hilary C; Haugrud, Jack; Burke, Marcilynn; Farquhar, Ned; Downs, Michael F; Herrell, Tony J; Stovall, James K

Participants:

John Smitherman, Vice President of Operations, BOPCO LP
Robert Ready, Regulatory Manger, Concho Resources Incorporated
James Brown, Attorney-in-Fact, Yates Petroleum Corporation
John Merson, Senior Manager, Sandia National Laboratories
Dan Moorehouse, Mine Engineering Superintendent, Mosaic Potash Int
Don Purvis, Vice President, Mosaic Potash Int
Chad Johnson, Regional Engineering Manger, Cimerex Energy Company
John Mansanti, Vice President of Operations, Intrepid Potash Incorporated
Randy Bolles, Manager of Regulatory Affairs, Devon Energy Corporation
Eileen Dey, Regulatory Manager, MCBU, Conoco Phillips
Kevin Ryan, Director of Technical Services, Intrepid Potash Incorporated
Keith Sevin, Regulatory Manager, Occidental Oil and Gas Corp
Suzanne Holland, Legislative and Regulatory Advocacy Advisor, Chevron Inc
Tony Herrell
James (Jim) Stovall

From Lane, Kenneth **Date** Monday, April 30, 2012 4:04:40 PM
To Lin, Janet H; Fink, Jason M
Cc Burke, Marcilynn; Marsters, Lizzie; Cardinale, Richard; Hayes, David; Kornze, Neil G; Haugrud, Jack; Abbey, Robert V; Lee-Ashley, Matt; Tompkins, Hilary C; Hawbecker, Karen
Subject RE: Potash and Oil and Gas Informational Memorandum

ok

Ken Lane
Senior Advisor to the Secretary,
Assistant Deputy Chief of Staff
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
Room 6142
202-208-7435 phone

From: Lin, Janet H
Sent: Monday, April 30, 2012 2:50 PM
To: Fink, Jason M; Lane, Kenneth
Cc: Burke, Marcilynn; Marsters, Lizzie; Cardinale, Richard; Hayes, David; Kornze, Neil G; Haugrud, Jack; Abbey, Robert V; Lee-Ashley, Matt; Tompkins, Hilary C; Hawbecker, Karen
Subject: Potash and Oil and Gas Informational Memorandum

Jason and Ken:

Attached is the Info Memo for the Potash/Oil and Gas meeting with industry tomorrow. I have cc:ed those on the memo.

Let us know if you need anything else.

Thanks.

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

From Cardinale, Richard **Date** Tuesday, May 01, 2012 9:44:41 AM
To Burke, Marcilynn
Cc
Subject Potash Concpet Document

Janet has it in hard copy form. She's going to scan it and e-mail it.

Rich

From Lin, Janet H **Date** Tuesday, May 01, 2012 11:00:52 AM
To Burke, Marcilynn; Cardinale, Richard
Cc
Subject Potash - OIG - JITC Letter

Mansanti.pdf (369 KB HTML)

Marcilynn – here is the JITC letter!

John Mansanti
Intrepid Potash, Inc.
707 17th St., Suite 4200
Denver, CO 80202

John Smitherman
BOPCO, L.P.
201 Main Street Suite 3100
Fort Worth, TX 76102

April 5, 2012

The Honorable Kenneth L. Salazar
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Secretary,

As the Co-Chairs of the Joint Industry Technical Committee we respectfully request a time to personally brief you regarding the consensus recommendations by the Committee. The Committee took your challenge of January 5, 2012 very earnestly and through the hard work of many Committee members were able to reach a consensus on a framework for effective and safe concurrent development of potash and oil and gas resources in the Secretary's Potash Area. As Co-Chairs our desire is to impress upon you the strong support from the committee representatives of both industries for the concepts put forward though our recommendations which reflect the consensus of the group. Nonetheless, to be forthright there was a lack of total unanimity, with two of our member companies unable to sign the consensus document; one due to a very narrow difference on one specific recommendation with total consensus on the remainder of the document; the other member company due to on-going litigation proceedings taking place outside the scope of the technical committee. Enclosed with this letter are detailed recommendations signed by all but these two member companies.

We believe through this agreement what we have achieved is truly historic in nature given the legacy of litigation that has occurred since the Secretary's Potash Area was established in 1939; subsequent litigation has been very costly to both industries and neither industry wishes to continue on that course. As you can imagine, given this history, there has been much trepidation regarding the development of these concepts. This Committee has a common understanding of how these concepts may affect the operating rights of both industries. These impacts are very important to the Committee, therefore we respectfully request:

- To the extent possible the Committee requests to be consulted in some manner that is appropriate on the language to be included in the rewrite of the 1986 order to ensure the concepts put forward remain consistent with the intent of the Committee recommendations.

- The Committee requests the staff and expertise of the New Mexico Regional Solicitors Office and New Mexico BLM are utilized in some manner to develop the order to take advantage of their expertise and historic knowledge of the issues.
- Given the timeframes required to promulgate a new order we express our desire that appropriate interim guidance be developed to protect the intent of the effective and safe, concurrent development concepts proposed by the committee during the development of the new order.

In conclusion Mr. Secretary, the Committee is proud of the consensus recommendations achieved and will work to garner support from the larger oil and gas industry. Representatives of Committee look forward to performing a joint briefing with you to convey these concepts and answer any questions you may have.

John G Mansanti
Sr. Vice President Operations
Intrepid Potash
Co-Chair Potash Industry
303 996 2607

John R Smitherman
Vice President Operations
BOPCO, L.P.
Co-Chair Oil and Gas Industry
817 390 8400

Final Revision

Recommendations for a New Secretarial Order

The Joint Industry Technical Committee (the "Committee") has reached consensus on the following concepts which will have a significant impact on how orderly co-development of oil & gas and potash will be managed within the Secretary's Potash Area (SPA). The concepts presented herein are those which are being recommended to be codified through changes to the existing Secretarial Order and presented to Secretary Salazar by this Committee (italics) along with clarifying comments (not italicized). We believe that these changes will result in the most efficient way to manage co-development of both resources.

The Committee recognizes that the 1986 Secretarial Order has been the subject of lengthy litigation and interpretation, resulting in language that is understood by all parties. Accordingly, it is the desire of the Committee to retain as much of that clarified language as possible so as to minimize future litigation aimed at interpreting the new Order. With minimal changes to the existing Order, management of the SPA under the revised Order will be facilitated by mutual cooperation between these two industries under the auspices of the local BLM using Instructional Memoranda and other means. Members of the Committee from both industries have pledged their mutual cooperation in support of the local BLM as an immediate priority to develop those means. These details, which are designed to support the Order, will not be part of this recommendation.

This Committee will respectfully request the opportunity to make a presentation to the Secretary outlining the concepts approved by the Committee that are being recommended herein. In order to preserve our consensus, only the concepts that the Committee recommends to be directly addressed in the new Order will be included in that presentation. In addition, we will highlight the importance that the Committee places on being given ample opportunity to review drafts of the new Order so that we ensure that our consensus concepts are preserved as the revised Order is crafted. The parties have agreed to present only the consensus concepts as contained herein and will not seek to influence the Secretarial Order regarding concepts to which all parties have not agreed. The co-chairs of the Committee will make themselves available to the Secretary to clarify and provide background as to the agreed concepts.

Concepts to address in the new Order:

Data Adequacy and Orderly Development

Barren areas will be defined in the new Order as regions where it is known that commercial potash does not exist. There are areas within the SPA where there is insufficient core data to designate them as either Enclave or Barren and, therefore, present a data adequacy challenge. *The new Order will establish two options to address data adequacy. The first option is for sufficient core data to be obtained to identify a limited area as either Enclave or Barren so that the rules governing oil and gas development in such areas would then routinely apply. The second option is for oil and gas operators to bypass this core acquisition option providing that future oil and gas development occurs from drill islands within associated Development Areas.*

APDs at locations within the SPA with non-commercial mineralization established by sufficient core data as Barren (subject to established safety and surface restrictions) will be routinely processed as provided for in the 1986 Order with no change. APDs at locations within Enclave shall continue to be processed under the new Order in a manner consistent with how these APDs would be processed under the 1986 Order (using drill islands where needed) except that it will be made clear that the establishment of a drill island will be accompanied by the establishment of a Development Area where necessary and applicable within which all future new oil and gas drilling through potash formations will be conducted from that associated drill island to facilitate more orderly development of both resources. The BLM will consider at a minimum the appropriate application of current oil and gas technology established in the Permian Basin, the utilization of unitization/communitization as required, and information regarding future potash development as it exercises its discretion regarding the establishment, placement, size, shape, and orientation of a Development Area.

APDs in areas within the SPA with insufficient core information to designate them as either Enclave or Barren (therefore in areas lacking in data adequacy and designated as Indicated, Inferred or Unknown) may be developed from drill islands with associated Development Areas, as described above for Enclave, unless oil and gas operators choose to attempt to establish the desired location as Barren (as described herein). All APDs will be subject to established safety setbacks and routine surface considerations. Should oil and gas operators desire to attempt to acquire adequate data to establish Barren areas in any part of the SPA not currently established as such by sufficient core data, an option will be established in the new Order for oil and gas operators to design and execute a core acquisition plan to establish the area as Enclave or Barren. The Order will specify 1) that this data acquisition option will include sufficient access to existing core data to design the data acquisition plan, 2) that reasonable timeframes will be established to ensure effectiveness of the option and 3) cost-sharing and data management protocols will be established by the local BLM.

The Order will require that notice of every APD filed within the SPA be given to all active potash mine operators, other relevant stakeholders and other interested parties as determined by the BLM. The BLM will provide the list of all entities for whom oil and gas operators will be required to provide notice. *The Order will also contain language to require clearly established, sufficient time intervals for processing of an APD which would allow for voluntary stakeholder input.* Communication with the BLM from the noticed parties regarding such APDs will be voluntary for all parties. The BLM will be required to consider input from all relevant parties as long as the communications are received timely.

The Order will require that when establishing drill islands and Development Areas when such islands and Development Areas are closer to traditional (non-solution) potash mining operations that the BLM use a more rigorous application of the tools available including drilling and completion technology and unitization/communitization or other such statutory authorities, to minimize the loss of potash ore while considering co-development of both resources. The Order will allow the BLM greater flexibility in establishing drill islands and Development Areas where farther from current and near-term traditional potash mining operations. In all cases, the BLM should make case by case, fact-based decisions on the establishment of drill islands and associated Development Areas. As established in the current Order, no drill islands will be established within one mile of any area where approved mining operations will be conducted within three years.

The result of this process should be that oil and gas operators will be encouraged to utilize the most appropriate level of currently established technology in the Permian Basin to fully develop the Development Area from any established drill island near to traditional potash mining operations. Conversely oil and gas operators will be allowed greater flexibility, even to the point of individual well locations where deemed appropriate by the BLM. Careful management of the SPA under those authorities will result in more orderly development of both mineral resources throughout the SPA.

Safety Buffers

Current language in the 1986 Order establishing ¼ and ½ mile safety buffer set-backs for oil and gas wells respectively will not be changed at this time. New language will be added in the new Order to allow the BLM to grant generally applied variances from these safety buffer set-backs at a time (or times) in the future based upon recommendations from a Joint Industry Technical Committee including the input of the science advisor (Sandia National Laboratories at the outset).

As a side note, this is the only explicitly established element of the proposed new Order that we are building in a mechanism for change in the future.

Unitization

As many drill islands and associated Development Areas are established it may be necessary to consolidate operations. In many cases it will be necessary to create pro-rata ownership interests across a particular Development Area. Finally, in many cases it will be necessary to establish operating protocols through agreements similar to unit agreements and unit operating agreements within a Development Area. *The new Order will include language that clarifies and enhances BLM's authority to require such agreements where necessary to facilitate more orderly development of oil and gas reserves within the SPA.* To be clear, some Development Areas will not need additional agreements because sufficient agreement/protocols already exist across that particular Development Area.

Potash Leasing

Language will be added to the new Order that will clarify the intent and duties of any entity pursuing the acquisition of a potash mining lease. This new language is intended to restrict the acquisition of a potash lease to only those parties who intend to develop the potash reserves associated therewith. The language requested by the Committee is:

"In the event that a company expresses competitive interest in potassium leases in the Secretary's Potash Area, the BLM should make a determination as to whether the competitor's interest asserted is identifiable, substantial and genuine, and not merely speculative or casual." AND "In the event of a competitive auction for potassium leases in the Secretary's Potash Area, any and all bidders shall certify that they have substantial and genuine interest in developing the potash resources and that they intend to develop the potash resource in accord with the applicable diligence stipulations."

Technical Committee

The new Order will contain language establishing a Joint Industry Technical Committee. The Committee will be made up of representatives of the Potash Mining industry and the Oil and Gas industry. It will be established with a long-term role to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. The committee will be an information-sharing and

FACA

consensus-seeking body with no role in routine SPA management. Priorities and reporting requirements will be established as appropriate in consultation with the local BLM and will not be a part of the new Order.

The BLM will be empowered to select an outside, unbiased technical institute or organization that can act as a science advisor to the committee and to the BLM. Sandia National Laboratories will serve that role initially but the BLM is free to use other, comparable institutes as situations dictate.

Resource Maps/Filings

The BLM will be required to provide up to date potash resource maps to the public depicting areas determined to be Enclave, Indicated, Inferred, Unknown, and Barren as soon as practical after additional data is obtained but in no case less often than annually. Areas where insufficient information exists to classify as Enclave, Indicated, Inferred or Barren should be categorized as Unknown.

Potash companies should continue to be required to submit 3-year mine plans to the BLM annually.

Supporting Definitions

Development Areas – areas within the Secretarial Potash Area established in consideration of appropriate current oil and gas technology such that wells can be drilled from a Drill Island capable of effectively extracting oil & gas resources while managing the impact on commercial potash resources. Each Development Area will typically have only one Drill Island, subject to narrow exceptions based on specific facts and circumstances. All new oil & gas drilling that penetrates the potash formations within a Development Area will be performed from its associated Drill Island or Islands.

Drill Island – an area associated with 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 & gas resources from the Development Area. 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.

Safety Buffer – the area around an active Drill Island or well where no mining is normally expected to occur. This is also the distance a new well is normally set back from existing potash Enclave. Currently the Safety Buffer distance is ¼ or ½ mile depending whether it is to an oil or gas well respectively.

Barren – areas within the Secretarial Potash Area will be designated as Barren when proven to contain potash quality values lower than the BLM's applicable thickness and cutoff grade for commercial potash. In order to establish an area as Barren, sufficient core data showing ore grades lower than the current BLM criteria for economic potash ore is required. The current criteria for commercial potash are expressed in the Van Sickle method which requires three cores within 1-1/2 mile of each other showing sufficient potash values on any single ore zone to be commercial.

Unknown - areas within the Secretarial Potash Area where insufficient information exists to classify the area as Enclave, Indicated, Inferred, or Barren.

Additional tasks remaining:

The above-mentioned concepts represent the entirety of what the Joint Industry Technical Committee recommends for inclusion into a new Secretarial Order for the management of co-development of oil & gas and potash within the Secretarial Potash Area.

As expected, there remain some operational details that have not been fully addressed that we expect will be helpful to the BLM as they implement the concepts to be incorporated in the new Order. The Technical Committee plans to continue working with the local BLM to gain further understanding of these details and to provide support for the BLM to develop local guidance. We expect that the very group that has successfully achieved consensus on the recommended changes to the current Secretarial Order will be equally successful in providing early support to the BLM regarding implementation of the new Order and in providing long-term support for effective and safe co-development of oil & gas and potash into the future.

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Intrepid Potash:

John Mansanti
Senior Vice President of Operations

5/Apr/12.
Date

Kevin Ryan
Director of Technical Services

April 5, 2012
Date

6/15

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for BOPCO, L.P.:

John R. Smitherman
Vice President Operations

4/5/12
Date

7/15

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Technical Steering Committee

Concurring for Chevron U.S.A., by and through its division, Chevron North America Exploration and Production Company:

Suzanne P. Holland — 4/3/2012

Suzanne P. Holland
Legislative and Regulatory Advocacy Advisor

Date

Judy L. Moses — 4/3/2012

Judy L. Moses
General Manager Asset Development
MidContinent Business Unit
Chevron North America Exploration and Production Company (Chevron USA Inc. division)

Date

8/15

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Cimarex Energy Company:

Chad Johnson
Regional Engineering Manager, Permian Basin

4/4/2012
Date

Stephen P. Bell
Sr. Vice President Business Development and Land

4/4/2012
Date

9/15

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for COG Operating LLC, a
Subsidiary of Concho Resources Inc.:

J. Robert Ready

J. Robert Ready
Regulatory Manager
COG Operating LLC

4/4/2012
Date

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for ConocoPhillips:

David H. Harms

David Harms
Supervisor - Permian Production Engineering

April 5, 2012
Date

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Mosaic Potash:

William H. Boyer
Vice President - Operations
Mosaic Potash Carlsbad Inc.

4/3/2012
Date

Daniel J. Morehouse
Mine Engineering Superintendent
Mosaic Potash Carlsbad Inc.

4/5/2012
Date

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Sandia National Laboratories:

April 5, 2012

John A. Merson, Ph. D.
Senior Manager
Geoscience Research and Applications Group
Sandia National Laboratories

Date

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Three Rivers Operating Company LLC:

Michael Wichterich
President

4/5/2012
Date

Tim Kane
Land Manager

4/5/2012
Date

Recommendations for a New Secretarial Order
Prepared by the Joint Industry Steering Committee

Concurring for Yates Petroleum Corporation:

James S. Brown
Attorney-in-Fact

4-5-12
Date

From Farquhar, Ned **Date** Tuesday, May 15, 2012 5:52:11 PM
To Burke, Marcilynn
Cc
Subject Fw: Draft Potash Order for Secretarial Review

2012 05 15 Draft revised Potash Order 5 00 pm -clean.docx (49 KB HTML)

From: Haugrud, Jack
Sent: Tuesday, May 15, 2012 05:30 PM
To: Lane, Kenneth
Cc: Pool, Michael J; Abbey, Robert V; Farquhar, Ned; Tompkins, Hilary C
Subject: Draft Potash Order for Secretarial Review

Ken: (b) (5)

Jack

Cc Director Abbey, Deputy Director Pool, Deputy Assistant Secretary Ned Farquhar, Solicitor Tompkins

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 – (b) (5)

Development Area – (b) (5)

Drilling Island – (b) (5)

(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)

ns.

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

(b) (5)

III. General Provisions

A. Issuance of Oil and Gas Leases

(b) (5)

B. Reinstatement of Oil and Gas Leases

(b) (5)

(b) (5)

C. Potash Leases

(b) (5)

D. Delineation of Resource Areas

(b) (5)

E. Oil and Gas Drilling

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

(b) (5)

3. Maintenance of Safety Buffers.

(b) (5)

4. Unitization and Communitization.

(b) (5)

(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)

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

(b) (5)

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

From Farquhar, Ned **Date** Thursday, May 17, 2012 1:55:51 PM
To Burke, Marcilynn
Cc
Subject FW: Draft Potash Order for Secretarial Review
2012 05 15 Draft revised Potash Order 5 00 pm -clean.docx (49 KB HTML)

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

From: Farquhar, Ned
Sent: Tuesday, May 15, 2012 5:52 PM
To: Burke, Marcilynn
Subject: Fw: Draft Potash Order for Secretarial Review

From: Haugrud, Jack
Sent: Tuesday, May 15, 2012 05:30 PM
To: Lane, Kenneth
Cc: Pool, Michael J; Abbey, Robert V; Farquhar, Ned; Tompkins, Hilary C
Subject: Draft Potash Order for Secretarial Review

Ken: (b) (5)

n. Jack

Cc Director Abbey, Deputy Director Pool, Deputy Assistant Secretary Ned Farquhar, Solicitor Tompkins

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)

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

I. Definitions.

Authorized Officer – (b) (5)

Barren Area – (b) (5)

Designated Potash Area – (b) (5)

Development Area– (b) (5)

Drilling Island – (b) (5)

(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)

(b) (5)

III. General Provisions

A. Issuance of Oil and Gas Leases

(b) (5)

B. Reinstatement of Oil and Gas Leases

(b) (5)

(b) (5)

C. Potash Leases

(b) (5)

D. Delineation of Resource Areas

(b) (5)

E. Oil and Gas Drilling

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

(b) (5)

3. Maintenance of Safety Buffers.

(b) (5)

4. Unitization and Communitization.

(b) (5)

(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)

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

(b) (5)

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

From (b) (6) **Date** Friday, May 18, 2012 1:57:02 PM

To Haugrud, Jack

Cc Tompkins, Hilary C; Abbey, Robert V; Hayes, David; Farquhar, Ned; Davis, Laura; Burke, Marcilynn; Lane, Kenneth; Lee-Ashley, Matt

Subject Revised Potash Order

Jack,
(b) (5)
Ken Salazar

Sent from my iPad

From Haugrud, Jack **Date** Friday, May 18, 2012 2:45:26 PM

To (b) (6)

Cc Tompkins, Hilary C; Abbey, Robert V; Hayes, David; Farquhar, Ned; Davis, Laura; Burke, Marcilynn; Lane, Kenneth; Lee-Ashley, Matt

Subject RE: Revised Potash Order

(b) (5)

-----Original Message-----
From: (b) (6)
Sent: Friday, May 18, 2012 1:57 PM
To: Haugrud, Jack
Cc: Tompkins, Hilary C; Abbey, Robert V; Hayes, David; Farquhar, Ned; Davis, Laura; Burke, Marcilynn; Lane, Kenneth; Lee-Ashley, Matt
Subject: Revised Potash Order

Jack,
(b) (5)
Ken Salazar

Sent from my iPad

From Haugrud, Jack **Date** Friday, May 18, 2012 3:06:14 PM

To Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D; Hawbecker, Karen

Cc Tompkins, Hilary C; Abbey, Robert V; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt

Subject FW: Revised Potash Order

Attorney-Client Communication
DO NOT DISCLOSE

Team Potash: Congratulations! (b) (5)

From Farquhar, Ned **Date** Friday, May 18, 2012 3:09:50 PM

To Haugrud, Jack; Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D; Hawbecker, Karen

Cc Tompkins, Hilary C; Abbey, Robert V; Burke, Marcilynn

Subject RE: Revised Potash Order

(b) (5)

Please keep me in the loop as this proceeds.

Thanks!

N

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

-----Original Message-----
From: Haugrud, Jack
Sent: Friday, May 18, 2012 3:06 PM
To: Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D; Hawbecker, Karen
Cc: Tompkins, Hilary C; Abbey, Robert V; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt
Subject: FW: Revised Potash Order

Attorney-Client Communication
DO NOT DISCLOSE

Team Potash: Congratulations! (b) (5)

From Abbey, Robert V **Date** Friday, May 18, 2012 3:25:24 PM

To Haugrud, Jack; Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D

Cc Tompkins, Hilary C; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt

Subject Re: Revised Potash Order

Jack:

(b) (5)

Bob

----- Original Message -----
From: Haugrud, Jack
Sent: Friday, May 18, 2012 01:06 PM
To: Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D; Hawbecker, Karen
Cc: Tompkins, Hilary C; Abbey, Robert V; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt
Subject: FW: Revised Potash Order

Attorney-Client Communication
DO NOT DISCLOSE

Team Potash: Congratulations! (b) (5)

From Juen, Jesse J **Date** Saturday, May 19, 2012 10:35:47 AM

To Haugrud, Jack; Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Nedd, Michael D

Cc Tompkins, Hilary C; Abbey, Robert V; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt

Subject Re: Revised Potash Order

Jack, (b) (5)

Jesse

----- Original Message -----
From: Haugrud, Jack
Sent: Friday, May 18, 2012 01:06 PM
To: Hawbecker, Karen; Fugate, Barbara; Johnson, Lynn; Umshler, Sue; Daugherty, Dennis; Blank, Harvey; Cranston, Craig C; Spisak, Timothy; Herrell, Tony J; Spielman, Jay R; Allard, Phil; Vogt, Vincent N; Martin, Benjamin F; Leverette, Mitchell; Stovall, James K; Pool, Michael J; Juen, Jesse J; Nedd, Michael D; Hawbecker, Karen
Cc: Tompkins, Hilary C; Abbey, Robert V; Farquhar, Ned; Burke, Marcilynn; Lane, Kenneth; Davis, Laura; Lee-Ashley, Matt
Subject: FW: Revised Potash Order

Attorney-Client Communication
DO NOT DISCLOSE

Team Potash: Congratulations! (b) (5)

From Farquhar, Ned **Date** Monday, May 21, 2012 8:58:56 PM
To Burke, Marcilynn; Barlan, Bryce
Cc
Subject Fw: Attaching draft potash order with new revisions

2012.05.21 Draft revised Potash Order -- new edits after Secretarial review.docx (47 KB HTML)

----- 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

I am attaching for your review a new draft of the Secretarial Potash Order with revisions based on comments received after the order was sent to the Secretary for review last week. I would appreciate it if you could send me any questions or comments about these revisions by noon Eastern time tomorrow (Tuesday). Thank you.
Barbara

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)

S.

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)

~~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)

g. Those areas that are Unknown Areas.

(b) (5)

E. Oil and Gas Drilling

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

(b) (5)

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)

From Farquhar, Ned **Date** Tuesday, May 22, 2012 3:55:54 PM
To Burke, Marcilynn
Cc
Subject Fw: Attaching draft potash order with new revisions
2012.05.22 Draft revised Potash Order.docx (49 KB HTML)

----- Original Message -----
From: Fugate, Barbara
Sent: Tuesday, May 22, 2012 03:46 PM
To: 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; Lin, Janet H
Cc: Haugrud, Jack; Daugherty, Dennis; McNeer, Richard; Johnson, Lynn; Blank, Harvey; Umshler, Sue; Murphy,Timothy; Spector, Rachel; Hawbecker, Karen
Subject: RE: Attaching draft potash order with new revisions

Thanks so much to everyone for your input on the draft order (last night's version and all the previous ones!). We have put in the most recent revisions that we thought would work at this time. There will be another opportunity for revisions after we receive comments from the JITC. I am attaching a clean copy of the draft order that we believe is ready for BLM to send to the JITC. My understanding is that Phil Allard will convert this into a pdf. Thanks again.
Barbara

From: Fugate, Barbara
Sent: Monday, May 21, 2012 8:57 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

I am attaching for your review a new draft of the Secretarial Potash Order with revisions based on comments received after the order was sent to the Secretary for review last week. I would appreciate it if you could send me any questions or comments about these revisions by noon Eastern time tomorrow (Tuesday). Thank you.
Barbara

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)

Unknown Area – (b) (5)

II. Status of Lands

(b) (5)

III. General Provisions

A. Issuance of Oil and Gas Leases

(b) (5)

B. Reinstatement or Renewal of Oil and Gas Leases

(b) (5)

(b) (5)

C. Potash Leases

(b) (5)

D. Delineation of Resource Areas

(b) (5)

E. Oil and Gas Drilling

1. Drilling within the Designated Potash Area.

(b) (5)

2. Development Areas.

(b) (5)

(b) (5)

3. Maintenance of Buffer Zones.

(b) (5)

4. Unitization and Communitization.

(b) (5)

5. Coordination with the State of New Mexico.

(b) (5)

6. Exploration Licenses.

(b) (5)

(b) (5)

7. Notice to Potash Lessees.

(b) (5)

F. Access to Maps and Surveys

(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)

(b) (5)

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

From Farquhar, Ned **Date** Tuesday, June 12, 2012 7:17:46 PM
To Burke, Marcilynn; Barlan, Bryce
Cc
Subject Fw: Potash Comments

2012 06 08 Draft revised Potash Order JITC.docx (60 KB HTML)

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.

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) ry

(b) (5)

I. Definitions.

Authorized Officer – (b) (5)

Barren Area – (b) (5)

s.

Buffer Zone –(b) (5)

Designated Potash Area – (b) (5)

Development Area– (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)

(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)

) (5)

(b) (5)

B. Reinstatement or Renewal of Oil and Gas Leases

(b) (5)

C. Potash Leases

(b) (5)

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D. Delineation of Resource Areas

(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.
(b) (5)

(b) (5)

3. Maintenance of Buffer Zones.

(b) (5)

se

(b) (5)

4. Unitization and Communitization.
(b) (5)

5. Coordination with the State of New Mexico.
(b) (5)

6. Potash Exploration Licenses and Approvals.

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(b) (5)

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7. Notice to Potash Lessees.

(b) (5)

F. Access to Maps and Surveys

(b) (5)

(b) (5)

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IV. Regulatory and Administrative Matters

(b) (5)

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rmatted: List Paragraph, No bullets or mbering

(b) (5)

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

(b) (5)

(b) (5)

(b) (5)

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

e.

From Barlan, Bryce **Date** Thursday, June 14, 2012 2:52:12 PM
To Farquhar, Ned; Burke, Marcilynn
Cc
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.

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: 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 Farquhar, Ned **Date** Thursday, June 14, 2012 2:59:14 PM
To Barlan, Bryce; Burke, Marcilynn
Cc
Subject RE: Potash Comments

That is great, thank you! NF

Ned Farquhar
Deputy Assistant Sceretary
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,

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I have no major comments. Some sentences kind of confused me so I'd like to ask someone in BLM for clarification.

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

From: Farquhar, Ned
Sent: Tuesday, June 12, 2012 7:18 PM
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Subject: Fw: Potash Comments

We can discuss tomorrow.

From: Lin, Janet H
Sent: Tuesday, June 12, 2012 05:22 PM
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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 Cardinale, Richard **Date** Tuesday, June 26, 2012 9:51:26 AM
To Burke, Marcilynn; Barlan, Bryce
Cc
Subject Fw: Potash-O&G Secretarial Order - Schedule

Potash-OG.doc (schedule, 6-25-12).docx (19 KB HTML)

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
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

1. **Def.: Co-Development**
   Comment Summary: (b) (5)

2. **Joint Recommendation- Drilling Islands**
   Comment Summary: (b) (5)

3. **Agreements between Potash and O&G**
   Comment Summary: (b) (5)

4. **Access to Data**
   Comment Summary: (b) (5)

(b) (5)

5. **Def.: Development Area**
Comment Summary: (b) (5)

Change the word "limiting" to "managing" in Sections 4.f. and 6.e.(2)(d)(i).

6. **Notice to Affected Parties**
Comment Summary: (b) (5)

7. **Authorities**
Comment Summary: (b) (5)

(b) (5)

8. **Regulatory Conflict**
Comment Summary: (b) (5)

9. **Implementation of Order**
Comment Summary: (b) (5)

10. **Order Not Scientifically Based**
Comment Summary: (b) (5)

11. **Lack of Concurrent Development**
Comment Summary: (b) (5)

12. **Effect on Small Operators**
Comment Summary: (b) (5)

(b) (5)

13. Lack of Public Participation
Comment Summary: (b) (5)

14. Redraft the Purpose
Comment Summary: (b) (5)

15. NEPA
Comment Summary: (b) (5)

16. Def.: Drill Island
Comment Summary: (b) (5)

17. Def.: Indicated and Inferred Resources
Comment Summary: (b) (5)

(b) (5)

18. Configuration of Buffer Zones
Comment Summary: (b) (5)

19. Mapping Process
Comment Summary: (b) (5)

20. Defacto Withdrawal
Comment Summary: (b) (5)

21. Unlawful Leasing Restriction
Comment Summary: (b) (5)

22. Establishment of Development Areas/ Drilling Islands/Barren Areas

Comment Summary: (b) (5)

23. NM State Legislature Review

Comment Summary: (b) (5)

24. General

Comment Summary:

(b) (5)

25. Safety

Comment Summary:

(b) (5)

(b) (5)

26. Administration of APDs
Comment Summary: (b) (5)

27. Veto over APDs
Comment Summary: (b) (5)

28. Challenge Denial of APDs
Comment Summary: (b) (5)

the denial of any APD for any proposed location anywhere in the Potash Area.

29. Inconsistent with Previous Policy
Comment Summary: (b) (5)

30. Economic Impacts
Comment Summary: (b) (5)

31. Coordination with Local Governments
Comment Summary: (b) (5)

32. Adopt JITC Consensus
Comment Summary: The(b) (5)

33. Prior Commitment Made by DOI
Comment Summary: (b) (5)

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-

-

34. Technology Requirements Unfair
Comment Summary: (b) (5)

35. JITC not Representative
Comment Summary: (b) (5)

36. Designation of Single Operator
Comment Summary: (b) (5)

(b) (5)

37. Cost of Exploratory Work
Comment Summary: (b) (5)

38. Shared Drilling Island
Comment Summary: (b) (5)

INFORMATION MEMORANDUM FOR THE DEPUTY 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: Proposed Final Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

DATE: September 25, 2012

I. INTRODUCTION

(b) (5)

Brief Summary Of Draft Secretary's Order

(b) (5)

(b)
(5)

II. BACKGROUND

(b) (5)

(b) (5)

IIV POSITION of INTERESTED PARTIES

(b) (5)

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

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I. INTRODUCTION

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4310-VC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO100000, L18200000.XX0000]

Notice of Availability of the Comment Analysis for the 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: (b) (5)

ADDRESSES: The Comments that were received and the comment analysis are available for review at the following Website: http://www.blm.gov/nm/st/en/info/potash.html The final Secretary's Order was published in the Federal Register on [INSERT DATE OF PUBLICATION OF THE ORDER IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe. New Mexico, 87508; e-mail: therrell@blm.gov.

SUPPLEMENTARY INFORMATION:

Background

(b) (5)

(b) (5)

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Comments on the Draft Order

(b) (5)

(b) (5)

(b) (5)

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

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: 1	**Def.: Co-Development**

Comment Summary: Delete Section 4.d or, at a minimum, the specific language from Section 4.d: "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 support the provision as it could be used to term limit Drilling Islands and provide a vehicle to postpone or delay permits for drilling or mining.

Several commenters suggest that if a definition must be provided, use: "Co-development is the concurrent development of commercial 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 land) simultaneously."

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Manzano, Lea County, McClellan, Chaves County, Eddy County, Coll Brothers, Lynx, HEYCO, PBPA

Analysis:

(b) (5)

Regulatory Framework:
FLPMA, IBLA 92-612, Draft Secretarial Order

Follow-up Activities:
(b) (5)

Comment Number: 2	**Joint Recommendation- Drilling Islands**

Comment Summary: 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:

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

(1) Drilling within the Designated Potash Area
(c) ~~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).

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA

Analysis: (b) (5)

Regulatory Framework:

Follow-up Activities:
(b) (5)

Comment Number: 3	**Agreements between Potash and O&G**

Comment Summary: 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.

Commenter(s): HEYCO

Analysis:
(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) (5)

Regulatory Framework:
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

Comment Number: 4	**Access to Data**
Comment Summary: 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: (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 ~~owner of the records~~ BLM 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~~. 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.	
Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, HEYCO, PBPA	
Analysis: (b) (5)	

Regulatory Framework: FOIA
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

Comment Number: 5	**"Managing" v. "Limiting" Impacts**
Comment Summary: 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 ***managing*** the impact on potash resources." 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. ***Change the word "limiting" to "managing" in Sections 4.f. and 6.e.(2)(d)(i).***	
Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, IPANM, Lea County, PBPA	
Analysis: (b) (5)	
Regulatory Framework: 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

Comment Number: 6	**Notice to Affected Parties**

Comment Summary: 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:

e. Oil and Gas Drilling

(7) Notice to ~~Potash Lessees~~ Affected Parties. 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 and to the owners of the oil and gas rights and surface owners affected by such application, plan or proposal. A list of ~~current~~ the affected potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan or proposal. 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.

Commenter(s): JITC, COG Operating, AAPL, NMOGA, Yates, PBPA

Analysis:

(b) (5)

Regulatory Framework:

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

Comment Number: 7	**Authorities**
Comment Summary: 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.	
Commenter(s): NMOCD, HEYCO	
Analysis:	

(b) (5)

(b) (5)

Regulatory Framework: Mineral Leasing Act, 43 CFR, draft Order Sections 1 and 2.
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

Comment Number: 8	**Regulatory Conflict**
Comment Summary: 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 NMOCD and BLM regulatory frameworks.	
Commenter(s): NMOCD	
Analysis:	

(b) (5)

Regulatory Framework: 1986 Order Section III.E.3.
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

Comment Number: 9	**Implementation of Order**
Comment Summary: 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; in addition to drilling island and individual well agreements, and management prescriptions regarding leasing and development of both resources.	
Commenter(s): NMOGA	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 10	**Order Not Scientifically Based**
Comment Summary: The proposed Order is not scientifically or technically based or supportable. The Secretary should await the imminent completion of valid and tested science, 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.	
Commenter(s): Yates, IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea County, Chaves County, Coll Brothers, Manzano, McClellan, Lynx, Featherstone, Mack Energy	
Analysis: (b) (5)	
Regulatory Framework: Draft Order, Section 7.d; Secretarial Order 3305; Departmental Manual 305 DM 2 and 305 DM 3.	
Follow-up Activities: (b) (5)	

(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: 11	**Lack of Concurrent Development**
Comment Summary: 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. The policy has moved to the pre-1951 potash reserve concept. Furthermore, the lack of concurrent development of the resources constitutes a FLPMA violation.	
Commenter(s): Yates, IPANM, Fasken, PBPA, Eddy, EOG, Mewbourne, Hanson, Lea, McClellan, Manzano	
Analysis: (b) (5)	

(b) (5)

Regulatory Framework: MLA, FLPMA, 43 CFR, JITC comments dated 4/5/12, page 2 of 15.	
Follow-up Activities: (b) (5)	
Comment Number: 12	**Effect on Small Operators**

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Summary: 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.
Commenter(s): Yates, Fasken, McClellan, Manzano
Analysis:

(b) (5)

Regulatory Framework: 1986 Order, FLPMA
Follow-up Activities:

(b) (5)

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Comments on Proposed Secretarial Order

Comment Number: 13	**Lack of Public Participation**
Comment Summary: 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.	
Commenter(s): Yates, IPANM, HEYCO, Eddy, EOG, Hanson, Mewbourne, Lea, McClellan, Manzano, Strata, Chaves, Coll, Lynx	
Analysis:	

(b) (5)

(b) (5)

Regulatory Framework:
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

Comment Number: 14	**Redraft the Purpose**
Comment Summary: 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: This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), and provides *procedures and guidelines for fostering* more orderly co-development of oil and gas and potash deposits owned by the United States with the Designated Potash Area."	
Commenter(s): Yates	
Analysis: (b) (5)	
Regulatory Framework:	
Follow-up Activities: (b) (5)	

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Number: 15	**NEPA**
Comment Summary: 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. 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).)	
Commenter(s): Yates, Lea	
Analysis:	

(b) (5)

Regulatory Framework: 1986 Order; See 43 CFR subparts 3162.1, 3164.1, and 3165.1; BLM form 3100-11, 43 CFR part 3500 and subpart 3190; NEPA.
Follow-up Activities:

(b) (5)

Comment Number: 16	**Def.: Drilling Island**
Comment Summary: Definition is inadequate. Add the following language, originally included in the	

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

(b) (5)

Regulatory Framework:
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

Comment Number: 17	**Def.: Indicated and Inferred Resources**
Comment Summary: 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. 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.	
Commenter(s): Yates, IPANM, HEYCO, Fasken, Eddy, Hanson, Mewbourne, EOG, Lynx, McClellan, Manzano	
Analysis: (b) (5)	
Regulatory Framework:	
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

Comment Number: 18	**Configuration of Buffer Zones**
Comment Summary: 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.	
Commenter(s): Yates	
Analysis: 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 decision-making levels within a Bureau because it limits the discretion of Directors. Section 6.e.(3) of the draft Order will be implemented through Section 7(c) and Section 9. In Section 7(c) the Secretary specifically authorizes the Director to use broad discretion in implementing the Order and Section 9 allows the Director to re-delegate the authority granted to him as appropriate.	

(b) (5)

Regulatory Framework: Departmental Manual (235 DM); BLM Manual (Section 1203); 43 CFR Part 3000
Follow-up Activities:

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Number: 19	**Mapping Process**
Comment Summary: 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.	
Commenter(s): Yates	
Analysis:	

(b) (5)

Regulatory Framework:
Follow-up Activities:

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Comments on Proposed Secretarial Order

Comment Number: 20	**Defacto Withdrawal**
Comment Summary: 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. 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).	
Commenter(s): IPANM, HEYCO, Fasken, Eddy, EOG, Hanson, Mewbourne, Lea, McClellan, Manzano, Lynx, PBPA	

(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

Regulatory Framework: MLA, FLPMA, 43 CFR, JITC comments dated 4/5/12, page 2 of 15.	
Follow-up Activities:	
Comment Number: 21	**Unlawful Leasing Restriction**
Comment Summary: 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. 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. There is no similar protection granted, nor should there be, to parties acquiring oil and gas lessees.	
Commenter(s): IPANM, HEYCO, McClellan, Manzano	
Analysis:	

(b) (5)

Regulatory Framework: 173 IBLA 188 CAM Colorado; *Malcolm N.McKinnon*,	
Follow-up Activities:	
Comment Number: 22	**Establishment of Development Areas/ Drilling Islands/Barren Areas**
Comment Summary: 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 *any* 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. Commenters also expressed concern about the ambiguity associated with determining the size and shape of the Development Areas.
Commenter(s): IPANM, HEYCO, McClellan, Manzano, Lynx
Analysis:

(b) (5)

Regulatory Framework:
Follow-up Activities:

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Number: 23	**NM State Legislature Review**
Comment Summary: 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.	
Commenter(s): Dennis Kintigh (State Representative- Chaves, Lincoln & Otero)	
Analysis:	

(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

Regulatory Framework:
Follow-up Activities:

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Number: 24	**General**
Comment Summary: - Please do not allow more oil and gas and potash destruction of Southeast New Mexico. (Jurney) - By this email, we lodge our protest to the rule in complete agreement with the comments you have received from the Chaves County Commissioners. (Coll Brothers Oil) - 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) - Several years ago, Lynx submitted an APD that was protested by Intrepid; Lynx responded with a challenge and after considerable time and money, Lynx prevailed. Concerned that under the new Order, they would not be able to make such a challenge. (Lynx)	
Commenter(s): Charles Jurney, Coll Brothers Oil, Featherstone, Lynx, New Mexico Mining Association	

(b) (5)

Regulatory Framework:
Follow-up Activities:

Comment Number: 25	**Safety**
Comment Summary:	

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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The 1986 Order requires safety determinations to be made on a well by well basis. 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.
Commenter(s): HEYCO, IPANM, Fasken
Analysis:

(b) (5)

Regulatory Framework: 1986 Order
Follow-up Activities: None

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Comment Number: 26	**Administration of APDs**
Comment Summary: 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).	
Commenter(s): HEYCO, Lea County	
Analysis: (b) (5)	

Regulatory Framework:
Follow-up Activities:

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Comment Number: 27	**Veto over APDs**
Comment Summary: Giving potash lessees a veto on every APD is defacto unlawful delegation of authority.	
Commenter(s): HEYCO, Yates	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 28	**Challenge Denial of APDs**
Comment Summary: 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.	
Commenter(s): HEYCO, Lynx	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 29	**Inconsistent with Previous Policy**
Comment Summary: 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. Yates and other commenters would like to preserve the enclave policy from the 1986 Order.	
Commenter(s): HEYCO, IPANM, Yates, Fasken, Featherstone, EOG, Mewbourne, Hanson, Eddy County	
Analysis:	

(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) (5)

Regulatory Framework:
Follow-up Activities:

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico
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Comment Number: 30	**Economic Impacts**
Comment Summary: 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 *current* 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. 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 gave a dramatic adverse economic effect to Chaves, Eddy and Lea Counties, the State of New Mexico, and the Federal Government. In addition to lost revenues, Yates and others commented that the draft Order would also result in undue waste of oil and gas resources.	
Commenter(s): HEYCO, IPANM, Yates, Fasken, EOG, Manzano, Eddy, Hanson, Mewbourne, Lea, McClellan, Manzano, Featherstone, PBPA	
Analysis:	

(b) (5)

Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Lea County, Chaves County, Eddy County, Coll Brothers, Lynx	
Analysis:	
Regulatory Framework: FLPMA	
Follow-up Activities:	

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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

Comment Number: 32	**Adopt JITC Consensus**
Comment Summary: The DOI/BLM should adopt the JITC recommendations verbatim.	
Commenter(s): Lea County, Chaves County, PBPA	
Analysis:	

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Regulatory Framework:
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

Comment Number: 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 Assistant 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.	
Commenter(s): EOG, Hanson, Eddy County, McClellan, Manzano	
Analysis:	

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Regulatory Framework:
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

Comment Number: 34	**Biased Technology Requirements**
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.	
Commenter(s): Strata	
Analysis:	

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Regulatory Framework:
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

Comment Number: 35	**JITC not Representative**
Comment Summary: The JITC is not representative of the oil and gas industry.	
Commenter(s): Strata, Fasken	
Analysis:	

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Regulatory Framework:
tivities:

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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

Comment Number: 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 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.)	
Commenter(s): Strata	
Analysis:	

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Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Strata	
Analysis:	

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The policy is not meant to be restrictive or burdensome; rather it is intended to provide an additional option to the oil and gas lessees.
Regulatory Framework:
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

Comment Number: 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.	
Commenter(s): Strata	
Analysis: Since 1951, the Secretary's Order has required the BLM to place stipulations requiring unitization on all oil and gas leases issued in the Secretary's Potash Area. 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. The intent of the proposed Order is to enable the maximum technically feasible development of the oil and gas resources while (b) (5) 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 potash enclaves, from surface locations that do not penetrate potash enclaves. 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.	

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Regulatory Framework:
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

Comment Number: 39	**Definition of Barren Areas**
Comment Summary: The BLM is not qualified to establish Barren Areas.	
Commenter(s): Mack Energy	
Analysis:	

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Regulatory Framework:
Follow-up Activities:

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. (b) (5)

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.

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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.~~ (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~~ (b) (5)
(b) (5) he 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.

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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.

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(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) (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.

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:

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(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.

(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) he 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

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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 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.

(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~~

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~~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.

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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.

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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:

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Secretary's Potash Order

Proposed Path Forward

Publish two documents in the Federal Register:

- Secretary's Order
- Notice of Availability of Comments and Comment Analysis

Supporting documents will include a News Release, a Communications Plan, an Information Memorandum, and Environmental Assessment, a Decision Record/Finding of No Significant Impact, and a Decision Memorandum.

Publish information on a New Mexico BLM managed Website:

- All the comments that were received
- The comment analysis

Implementing documents would also be posted and available to the public here. These would include Delegation of Authority Memoranda, Instruction memoranda implementing the order, BLM Manual Sections implementing the Order, and any Handbooks developed to aid administration of the Designated Potash Area.

New Mexico staff will prepared the EA and the DR/FONSI. Washington staff assisted by the Department will prepare the news release and the communications plan (with input from New Mexico). Washington staff will prepare the information Memorandum and the Decision Memorandum.

After signature, the Washington Office will delegate the authority of the Director under the order to the New Mexico State Director with permission to redelegate if warranted. All other implementing documents will be prepared in New Mexico.

Weekly Report to the Secretary
Acting Assistant Secretary for Land and Minerals Management
October 4, 2012

I. Personal Message to the Secretary:

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II. Highlights of Travel, Meetings, Speeches, and other Public Events:

Week of October 9, 2012
Acting ASLM Burke – In the office all week.
DAS Farquhar – On Oct. 9 – 11, travel to Virginia Beach to attend AWEA conference ~~and DOI/DoD wind forum~~. Expected to address 200 developers and stakeholders at the Offshore Wind Acceleration Project session of the AWEA conference. In the office on Oct. 122.

Week of October 15, 2012
Acting ASLM Burke (b) (5)

DAS Farquhar – In the office all week.

III. Legislative, Legal, and Policy Issues:

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- **Atlantic Wind**

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Ongoing Projects:

- OSM-BLM Consolidation Implementation
- Stream Protection Rule
- Tennessee Lands Unsuitable for Mining Petition
- DOI/DoD Joint Action Plan Implementation
- Onshore Orders
- Hydraulic Fracturing Rule
- Oil Shale PEIS and Rulemaking

Submitted by: Marcilynn A. Burke, Acting Assistant Secretary, Land and Minerals Management

Direct Dial: 202-208-2422; Cell: 202-603-9378/713-550-4859

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4310-VC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO100000, L18200000.XX0000]

Notice of Availability of the Comment Analysis for the 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.

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ADDRESSES: The Comments that were received and the comment analysis are available for review at the following Website: http://www.blm.gov/nm/st/en/info/potash.html. The 2012 Secretary's Order was published in the Federal Register on [INSERT DATE OF PUBLICATION OF THE 2012 SECRETARY'S ORDER IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe. New Mexico, 87508; e-mail: therrell@blm.gov.

SUPPLEMENTARY INFORMATION:

Background

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The New 2012 Secretary's Order

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Comments on the Draft Order

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Mike Pool

Acting Director, Bureau of Land Managment

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

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. (b) (5)

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.

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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.~~ (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~~ (b) (5)
(b) (5) he 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.

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(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. 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:

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(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.

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(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 and non-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) he 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.

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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 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.

(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.

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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.

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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:

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DECISION MEMORANDUM FOR THE SECRETARY

FROM: Mike Pool, Acting Director

CC: David Hayes, Deputy Secretary
Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management
Jack Haugrud, Deputy Solicitor

SUBJECT: Proposed Final 2012 Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

I. INTRODUCTION

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II. BACKGROUND

(b) (5)

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III. POSITION of INTERESTED PARTIES

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IV. DECISION OPTIONS

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V. RECOMMENDATION

(b) (5)

VI. DECISION BY THE SECRETARY

APPROVE: ___

DISAPPROVE: ___

COMMENTS: ___

_____

Ken Salazar

DECISION MEMORANDUM FOR THE SECRETARY

FROM: Mike Pool, Acting Director

CC: David Hayes, Deputy Secretary
Marcilynn Burke, Acting Assistant Secretary, Land and Minerals Management
Jack Haugrud, Deputy Solicitor

SUBJECT: Proposed Final 2012 Secretary's Order on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

I. INTRODUCTION

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IV. DECISION OPTIONS

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V. RECOMMENDATION

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VI. DECISION BY THE SECRETARY

APPROVE: ___

DISAPPROVE: ___

COMMENTS: ___

_____

Ken Salazar

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO100000, L18200000.XX0000]

Notice of Availability of the Comment Analysis for the 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: (b) (5)

ADDRESSES: The Comments that were received and the comment analysis are available for review at the following Website: http://www.blm.gov/nm/st/en/info/potash.html. The 2012 Secretary's Order was published in the Federal Register on [INSERT DATE OF PUBLICATION OF THE 2012 SECRETARY'S ORDER IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Tony Herrell; telephone 505-954-2222; 301 Dinosaur Trail, Santa Fe. New Mexico, 87508; e-mail: therrell@blm.gov.

SUPPLEMENTARY INFORMATION:

Background

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The New 2012 Secretary's Order

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Comments on the Draft Order

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Mike Pool

Acting Director, Bureau of Land Managment

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

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. (b) (5)

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~~ (b) (5) (b) (5)
ıe 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.

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(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. Upon verification, 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: (b) (5)

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(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.

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(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 and non-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) ıe 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.

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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 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.

(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~~

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~~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.

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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.

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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:

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