1) (b) (5)

2)

3)

FOIA Office
Please review
these may be
subject a FOIA
exemption for
Delib. Process.
Rich Gaskal

Anderson, Michael D

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

(b) (5)

(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

Anderson, Michael D

From: Lin, Janet H
Sent: Thursday, June 28, 2012 10:47 AM
To: Pollet, Jolie; Allard, Phil; Cardinale, Richard; Farquhar, Ned
Subject: RE: Potash

Ned and Rich:

Since a number of these are comments or questions, will you or Ned be raising them at the meeting this afternoon? We will have the team of experts there who can opine and engage in discussion.

Let us know - thanks.

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

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

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

Jolie

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

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

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

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

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

Phil

Anderson, Michael D

From: Burke, Marcilynn
Sent: Wednesday, June 27, 2012 7:19 PM
To: Pollet, Jolie
Cc: Barlan, Bryce; Farquhar, Ned
Subject: RE: potash
Attachments: Potash-OG Secretarial Order (surname version 2012 6 27)_jp_MAB.doc

Thanks for your careful review Jolie.

I just fixed some more typos.

(b) (5)

Thanks,

Marcilynn

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

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

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

Thanks.

Jolie

****

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

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

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 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 (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. (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

Internal Review

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.

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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) 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;

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(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

Internet Preview

(8) Those areas that are planned to be mined as per a three-year mine plan. (b) (5)

The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. The Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information. (b) (5)

e. Oil and Gas Drilling

(1) Drilling within the Designated Potash Area.

(b) (5)

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(b) (5)

(2) Development Areas.

(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.

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(b) (5)

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

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

(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;

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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

Internal Review Draft

(b) (5)

(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.

(b) (5)

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.

(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.

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(5) Coordination with the State of New Mexico.

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(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.

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.**

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

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

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;
secs. 22 to 27, inclusive;
secs. 35 and 36.

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

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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.

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T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

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

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

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

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

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

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

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

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

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

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

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

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

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

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

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Internal Review Draft

Anderson, Michael D

From: Davis, Laura
Sent: Wednesday, May 16, 2012 11:31 AM
To: Tompkins, Hilary C
Cc: Abbey, Robert V; Haugrud, Jack; Farquhar, Ned
Subject: Re: Potash

Thanks - (b) (5) :. Stay tuned.

On 5/16/12 11:16 AM, "Tompkins, Hilary C" <Hilary.Tompkins@sol.doi.gov> wrote:

>HT

Anderson, Michael D

From: Tompkins, Hilary C
Sent: Wednesday, May 16, 2012 11:17 AM
To: Davis, Laura
Cc: Abbey, Robert V; Haugrud, Jack; Farquhar, Ned
Subject: Potash

(b) (5)

: HT

Anderson, Michael D

From: Lin, Janet H
Sent: Thursday, May 10, 2012 6:24 PM
To: Farquhar, Ned; Cardinale, Richard
Subject: Re: Potash

Ok - we will.

----- Original Message -----
From: Farquhar, Ned
Sent: Thursday, May 10, 2012 04:09 PM
To: Lin, Janet H; Cardinale, Richard
Subject: Potash

Janet - pls keep me in the loop on potash. Just heard about a call Monday. Pls send info and any other events/ drafts coming. Thx. N

Anderson, Michael D

From: Burke, Marcilynn
Sent: Thursday, April 26, 2012 3:48 PM
To: Davis, Laura; Farquhar, Ned
Cc: Padilla, Joan
Subject: Re: Potash

I think we're already invite.

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: Davis, Laura
Sent: Thursday, April 26, 2012 03:32 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

Anderson, Michael D

From: Davis, Laura
Sent: Thursday, April 26, 2012 3:33 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

Anderson, Michael D

From: Allard, Phil
Sent: Friday, June 08, 2012 10:58 AM
To: Lin, Janet H; Juen, Jesse J; Herrell, Tony J; Nedd, Michael D; Vogt, Vincent N; Hawbecker, Karen; Blank, Harvey; Fugate, Barbara; McNeer, Richard; Stovall, James K; Leverette, Mitchell; Senio, Ian J; Cranston, Craig C
Cc: Haugrud, Jack; Iudicello, Fay; Lawyer, Mark; Kornze, Neil G; Pool, Michael J; Velasco, Janine; Farquhar, Ned; Roberson, Edwin; Boddington, Celia; Cardinale, Richard
Subject: RE: Potash - O&G - Next Steps
Attachments: 2012 06 08 Draft revised Potash Order JITC.docx

I went through the JITC's pdf file and created a track changes version. The base document is the 5/22/2012 version of the Order and the changes are the JITC's changes. This may make your review a bit easier.

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.* This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), correctec(b) (5) 987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development through safe, 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)

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); 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.

Section 3. *Order Revised and Superseded.* The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected(b) (5) 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)

I. Definitions.

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.

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)

Designated Potash Area – The land area described at Section 3.V. of this Order.

(b) (5)

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.

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.

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.

(b) (5)

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

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.

II. 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.

III. 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 (b) (5) 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:

(b) (5)

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 3.III.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.

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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: (1) the Federal Potash leases which are then held; and (2) lands on which exploration activities

have been conducted.

a. The areas where active mining operations are currently in progress in one or more ore zones;
b. The area where operations have been completed in one or more ore zones;
c. Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
d. Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
e. Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
f. Those areas that are believed to be Barren Areas; ~~and~~
g. Those areas that are Unknown Areas; and

~~g.~~h. Those areas that are planned to be mined as per a three year mine plan.

The Authorized Officer will annually review the information submitted in this regard 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)

(b) (5)

2. Development Areas.

(b) (5)

a.

b. After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, (b) (5) nforming lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, only 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. BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

(b) (5)

c.

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

(b) (5)

i.

ii.

(b) (5)

iii.

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 factor.

(b) (5)

3. Maintenance of Buffer Zones.

(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 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 BLM will use its 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 BLM 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, 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 will continue to have the right to 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 3.III.E. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

6. Potash Exploration Licenses and Approvals.

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7. Notice to Potash Lessees.

(b) (5)

F. Access to Maps and Surveys

1. Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or

lease on the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

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

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IV. 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 Parts 3100, 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 and 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.

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V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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

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

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

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

Anderson, Michael D

From: Lin, Janet H
Sent: Friday, June 08, 2012 10:50 AM
To: Juen, Jesse J; Herrell, Tony J; Nedd, Michael D; Vogt, Vincent N; Allard, Phil; Hawbecker, Karen; Blank, Harvey; Fugate, Barbara; McNeer, Richard; Stovall, James K; Leverette, Mitchell; Senio, Ian J; Cranston, Craig C
Cc: Haugrud, Jack; Iudicello, Fay; Lawyer, Mark; Kornze, Neil G; Pool, Michael J; Velasco, Janine; Farquhar, Ned; Roberson, Edwin; Boddington, Celia; Cardinale, Richard
Subject: Potash - O&G - Next Steps
Attachments: Potash-O&G (JITC, 6-8-12)20120607155428369.pdf

Potash-O&G Team (need a name!) -

(b) (5)

We will set up a meeting Monday afternoon.

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

Acting Director Mike Pool
Acting Director, Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Mr. Pool:

We appreciate the opportunity to review the Draft Secretary's Order describing rules for safe, orderly and concurrent development of potash and oil and gas resources within the Designated Potash Area. Please consider the attached consensus draft order our formal comments to the proposed draft transmitted to us by then Director Bob Abbey.

As the two industry Co-Chairs for the Joint Industry Technical Committee (JITC) we realized that to better communicate our intentions of the consensus document it would be necessary for the JITC to refine and in some cases add new language to the proposed Interior Draft. The committee put forth considerable effort in developing this document and achieved consensus by the member companies. In developing the response and refining the document it served to reset and better define the "terms" of the JITC consensus. Therefore we cordially request strong consideration be given to the Order rewrite we have submitted.

We understand that ultimately the authority of how the order is written and the rules for governance are ultimately the decisions of the Department of Interior. As Co-Chairs we propose to further take advantage of this historic opportunity by requesting, in the spirit of cooperation, to meet with the Solicitor's Office as often as necessary (in person or by conference call) to further their understanding of our interpretation of the consensus order developed by the JITC. We respectfully make this offer only with the intentions of making the order more resilient to withstand the test of time in providing rules for development by which both industries can develop their respective reserves.

Thanks in advance for your efforts and consideration of our request, we look forward to cooperatively working with you in the future.

John Mansanti

John Mansanti
Vice President Operations
Intrepid Potash

by John Smitherman

John R Smitherman
Vice President Operations
BOPCO

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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

Order

Section 1. *Purpose and Effect.* This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 6, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development through safe, concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.);* 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.

Section 3. *Order Revised and Superseded.* The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 6, 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.

I. Definitions

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.

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.

Buffer Zone - Areas established by the BLM within the Designated Potash Area (1) extending outward from the perimeter of existing underground open mine workings within which oil and gas operations are generally not allowed due to a BLM determination that oil and gas drilling could constitute a hazard to or interfere with orderly potash mining operations, and (2) extending outward from operating oil and gas well(s) or operating 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 and gas operations.

Designated Potash Area - The land area described at Section 3.V. of this Order.

Development Area - An area established by the BLM within the Designated Potash Area in consideration of appropriate current oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while managing the impact on commercial 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 drilling that penetrates the potash formations within a Developoment Area will be performed from its associated Drilling Island or Islands. Existing wells may be included within the boundaries of a Development Area. The boundaries of each Development Area will be determined in conformity with Section 3.III.E.2.

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 to support the development of oil and gas resources from the Development Area.

Indicated Resources - as defined by the BLM.

Inferred Resources - as defined by the BLM.

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.

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.

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

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.

II. 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.

III. 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 6, 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 3. III. 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 resource in accordance with the applicable diligence stipulations. In addition the BLM will be required to make a reasonable determination, that each bidder's interest is identifiable, substantial and genuine and not merely speculative or casual.

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: (1) the Federal Potash leases which are then held; and (2) lands on which exploration activities have been conducted.

a. The areas where active mining operations are currently in progress in one or more ore zones;
b. The area where operations have been completed in one or more ore zones;
c. Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
d. Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
e. Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
f. Those areas which are considered to be Barren Areas;
g. Those areas that are Unknown Areas; and
h. Those areas that are planned to be mined as per a three year mine plan.

The Authorized Officer will annually review the information submitted in this regard 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 Interior to administer oil and gas operations throughout the Designated Potash Area in a manner which promotes safe, orderly co-development of both 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 established in Section 3.V. of this Order. Four exceptions to this policy shall be permitted under the following conditions: (1) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or (2) if the drilling will occur from a Drilling Island established under a prior Order; or (3) 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 (4) if the drilling will occur from 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) or prescribed by prior agreement of the oil and gas lessee(s) and the potash lessee(s) in a written contract.

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. 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 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 or part 3180, or both, as appropriate. 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. 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 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.

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 managing the impact on commercial potash resources;
    ii. The appropriate application of current 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 consider more rigorous application of the factors listed in section 3.III.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 3.III.E.2.d will be applied further from current and near-term traditional 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 3.III.D.h) without the consent of the nearest affected Potash Lessee.

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 all relevant parties as long as that input is received timely. Relevant parties are considered to be those parties required to be noticed by the provisions of section 3.III.E.7 of this Order.

3. Maintenance of Buffer Zones.

Current buffers are: ¼ mile for oil wells and ½ mile for gas wells. These offsets will be considered Buffer Zones and will stay in effect until such time as revised distances are adopted by the BLM State Director or other BLM official, as delegated. The State 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 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 or 3180, or both, if appropriate. The BLM will use its 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 BLM 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, 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 will continue to have the right to 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 3.III.E. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

6. Potash Exploration Licenses and Approvals.

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

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 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 3.III.F.2 of this Order) and to obtain access to acquire core data (subpart b. of this section). The BLM will develop and employ, as appropriate, 1) cost sharing guidelines for the acquisition of this new potash core data and 2) 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.

7. Notice to 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 included on a list maintained by the BLM described hereinbelow, the owners of the oil and gas rights and surface owners to be determined by an instructional memorandum by the BLM. 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 purpose of proving a Barren Area, those records of core analysis in the area

of the planned program that are necessary to design that program will be provided in a timely fashion by the BLM, subject to data management protocols as referenced in section 3.III.E.6.c.

4. Maps of potash reserves and resources prepared under the provisions of Section 3.III.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.

IV. 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 Parts 3100, 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 and 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 is authorized to select an outside, unbiased technical institute or organization to act as a science advisor to the Joint Industry Technical Committee as to the BLM. Sandia National Laboratories will serve that role initially.

E. The BLM, in coordination and consultation with the Joint Industry Technical Committee will develop guidelines consistent with this Order for: establishing Development Areas, Drilling Islands, and other aspects germain to the effectiveness of this Order.

F. The BLM will develop appropriate timeframe guidelines and requirements, as appropriate, to ensure timely actions pursuant to the execution of this Order. This will include a timeframe for establishing Development Areas and Drilling Islands and the processing of APDs, Oil and Gas Leases and Potash Leases within the Designated Potash Area.

V. The designated Potash Area is as follows:

New Mexico Principal Meridian

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

T. 23 S., R. 28 E., Sec. I.

T. 19 S., R. 29 E., Secs. I and 2; Secs II to 15 inclusive; Secs. 22 to 27 inclusive; Secs. 34 and 36.

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

T 21 S" R, 29 E., Secs. I to 5 inclusive; Secs, 10 to 15 inclusive; Secs. 22 to 27 inclusive; Secs. 34 and 36 inclusive.

T. 22 S., R. 29 E., Secs. I to 5 inclusive; Sees. 8 to 17 inclusive; Sees. 19 to 36 inclusive.

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

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

T. 18 S., R. 30 E., Sees. 8 to 17 inclusive; Sees 20 to 29 inclusive; Sees. 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., Sees. I to 18 inclusive.

T. 19 S., R. 31 E., Sees. 7, 18; Sees. 31 to 36 inclusive.
T. 20 S., R. 31 E.,
T. 21 S., R. 31 E.,
T.22 S., R. 31 E.,

T. 24 S., R. 31 E., Sees. I to 18 inclusive; Sees. 35 and 36.

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

T. 19 S., R. 32 E., Sees. 25 to 28 inclusive; Sees 31 to 36 inclusive.
T. 20 S., R. 32 E.,
T. 21 S., R. 32 E.,

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

T. 19 S., R. 33 E., Sees. 21 and 36 inclusive.
T. 20 S., R. 33 E.,
T. 21 S., R. 33 E.,

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

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

T. 20 S., R. 34 E., Sees. 3 and 10 inclusive; Sees. 15 and 36 inclusive.

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

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

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

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

Acting Director Mike Pool
Acting Director, Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Mr. Pool:

We appreciate the opportunity to review the Draft Secretary's Order describing rules for safe, orderly and concurrent development of potash and oil and gas resources within the Designated Potash Area. Please consider the attached consensus draft order our formal comments to the proposed draft transmitted to us by then Director Bob Abbey.

As the two industry Co-Chairs for the Joint Industry Technical Committee (JITC) we realized that to better communicate our intentions of the consensus document it would be necessary for the JITC to refine and in some cases add new language to the proposed Interior Draft. The committee put forth considerable effort in developing this document and achieved consensus by the member companies. In developing the response and refining the document it served to reset and better define the "terms" of the JITC consensus. Therefore we cordially request strong consideration be given to the Order rewrite we have submitted.

We understand that ultimately the authority of how the order is written and the rules for governance are ultimately the decisions of the Department of Interior. As Co-Chairs we propose to further take advantage of this historic opportunity by requesting, in the spirit of cooperation, to meet with the Solicitor's Office as often as necessary (in person or by conference call) to further their understanding of our interpretation of the consensus order developed by the JITC. We respectfully make this offer only with the intentions of making the order more resilient to withstand the test of time in providing rules for development by which both industries can develop their respective reserves.

Thanks in advance for your efforts and consideration of our request, we look forward to cooperatively working with you in the future.

John Mansanti
Vice President Operations
Intrepid Potash

John R Smitherman
Vice President Operations
BOPCO

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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

Order

Section 1. *Purpose and Effect.* This Order revises and supersedes the Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425), corrected August 6, 1987 (52 FR 32171), and provides procedures and guidelines for fostering more orderly co-development through safe, concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.);* 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.

Section 3. *Order Revised and Superseded.* The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), corrected August 6, 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.

I. Definitions

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.

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.

Buffer Zone - Areas established by the BLM within the Designated Potash Area (1) extending outward from the perimeter of existing underground open mine workings within which oil and gas operations are generally not allowed due to a BLM determination that oil and gas drilling could constitute a hazard to or interfere with orderly potash mining operations, and (2) extending outward from operating oil and gas well(s) or operating 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 and gas operations.

Designated Potash Area - The land area described at Section 3.V. of this Order.

Development Area - An area established by the BLM within the Designated Potash Area in consideration of appropriate current oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while managing the impact on commercial 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 drilling that penetrates the potash formations within a Developoment Area will be performed from its associated Drilling Island or Islands. Existing wells may be included within the boundaries of a Development Area. The boundaries of each Development Area will be determined in conformity with Section 3.III.E.2.

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 to support the development of oil and gas resources from the Development Area.

Indicated Resources - as defined by the BLM.

Inferred Resources - as defined by the BLM.

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.

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.

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

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.

II. 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.

III. 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 6, 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 3. III. 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 resource in accordance with the applicable diligence stipulations. In addition the BLM will be required to make a reasonable determination, that each bidder's interest is identifiable, substantial and genuine and not merely speculative or casual.

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: (1) the Federal Potash leases which are then held; and (2) lands on which exploration activities have been conducted.

a. The areas where active mining operations are currently in progress in one or more ore zones;
b. The area where operations have been completed in one or more ore zones;
c. Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
d. Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
e. Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
f. Those areas which are considered to be Barren Areas;
g. Those areas that are Unknown Areas; and
h. Those areas that are planned to be mined as per a three year mine plan.

The Authorized Officer will annually review the information submitted in this regard 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 Interior to administer oil and gas operations throughout the Designated Potash Area in a manner which promotes safe, orderly co-development of both 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 established in Section 3.V. of this Order. Four exceptions to this policy shall be permitted under the following conditions: (1) if the drilling will occur from a Drilling Island associated with a Development Area established under this Order; or (2) if the drilling will occur from a Drilling Island established under a prior Order; or (3) 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 (4) if the drilling will occur from 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) or prescribed by prior agreement of the oil and gas lessee(s) and the potash lessee(s) in a written contract.

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. 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 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 or part 3180, or both, as appropriate. 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. 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 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.

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 managing the impact on commercial potash resources;
    ii. The appropriate application of current 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 consider more rigorous application of the factors listed in section 3.III.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 3.III.E.2.d will be applied further from current and near-term traditional 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 3.III.D.h) without the consent of the nearest affected Potash Lessee.

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 all relevant parties as long as that input is received timely. Relevant parties are considered to be those parties required to be noticed by the provisions of section 3.III.E.7 of this Order.

3. Maintenance of Buffer Zones.

Current buffers are: ¼ mile for oil wells and ½ mile for gas wells. These offsets will be considered Buffer Zones and will stay in effect until such time as revised distances are adopted by the BLM State Director or other BLM official, as delegated. The State 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 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 or 3180, or both, if appropriate. The BLM will use its 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 BLM 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, 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 will continue to have the right to 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 3.III.E. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

6. Potash Exploration Licenses and Approvals.

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

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 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 3.III.F.2 of this Order) and to obtain access to acquire core data (subpart b. of this section). The BLM will develop and employ, as appropriate, 1) cost sharing guidelines for the acquisition of this new potash core data and 2) 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.

7. Notice to 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 included on a list maintained by the BLM described hereinbelow, the owners of the oil and gas rights and surface owners to be determined by an instructional memorandum by the BLM. 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 purpose of proving a Barren Area, those records of core analysis in the area

of the planned program that are necessary to design that program will be provided in a timely fashion by the BLM, subject to data management protocols as referenced in section 3.III.E.6.c.

4. Maps of potash reserves and resources prepared under the provisions of Section 3.III.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.

IV. 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 Parts 3100, 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 and 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 is authorized to select an outside, unbiased technical institute or organization to act as a science advisor to the Joint Industry Technical Committee as to the BLM. Sandia National Laboratories will serve that role initially.

E. The BLM, in coordination and consultation with the Joint Industry Technical Committee will develop guidelines consistent with this Order for: establishing Development Areas, Drilling Islands, and other aspects germain to the effectiveness of this Order.

F. The BLM will develop appropriate timeframe guidelines and requirements, as appropriate, to ensure timely actions pursuant to the execution of this Order. This will include a timeframe for establishing Development Areas and Drilling Islands and the processing of APDs, Oil and Gas Leases and Potash Leases within the Designated Potash Area.

V. The designated Potash Area is as follows:

New Mexico Principal Meridian

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

T. 23 S., R. 28 E., Sec. I.

T. 19 S., R. 29 E., Secs. I and 2; Secs II to 15 inclusive; Secs. 22 to 27 inclusive; Secs. 34 and 36.

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

T 21 S" R, 29 E., Secs. I to 5 inclusive; Secs, 10 to 15 inclusive; Secs. 22 to 27 inclusive; Secs. 34 and 36 inclusive.

T. 22 S., R. 29 E., Secs. I to 5 inclusive; Sees. 8 to 17 inclusive; Sees. 19 to 36 inclusive.

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

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

T. 18 S., R. 30 E., Sees. 8 to 17 inclusive; Sees 20 to 29 inclusive; Sees. 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., Sees. I to 18 inclusive.

T. 19 S., R. 31 E., Sees. 7, 18; Sees. 31 to 36 inclusive.
T. 20 S., R. 31 E.,
T. 21 S., R. 31 E.,
T.22 S., R. 31 E.,

T. 24 S., R. 31 E., Sees. I to 18 inclusive; Sees. 35 and 36.

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

T. 19 S., R. 32 E., Sees. 25 to 28 inclusive; Sees 31 to 36 inclusive.
T. 20 S., R. 32 E.,
T. 21 S., R. 32 E.,

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

T. 19 S., R. 33 E., Sees. 21 and 36 inclusive.
T. 20 S., R. 33 E.,
T. 21 S., R. 33 E.,

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

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

T. 20 S., R. 34 E., Sees. 3 and 10 inclusive; Sees. 15 and 36 inclusive.

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

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

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

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

Anderson, Michael D

From: Pollet, Jolie
Sent: Wednesday, June 27, 2012 5:41 PM
To: Cardinale, Richard; Barlan, Bryce; Burke, Marcilynn; Farquhar, Ned
Cc: Ishee, Mary K
Subject: RE: Potash - O&G Draft Secretarial Order

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

Jolie

****

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

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

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

Please share with MK.

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

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

Bryce Barlan
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

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.

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

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

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

Hi Rich, Ned, Marcilynn:

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

Also attached is the Departmental schedule, which I sent out to everyone yesterday which was firmed up on Monday night. It is very tight with the holiday. Finalization of the draft SO for release for public comment will occur next Tuesday, the 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)

Anderson, Michael D

From: Cardinale, Richard
Sent: Wednesday, June 27, 2012 5:31 PM
To: Barlan, Bryce; Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned
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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

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Cc: Barlan, Bryce
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Importance: High

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desk phone 202-208-5348

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

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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)

Anderson, Michael D

From: Barlan, Bryce
Sent: Wednesday, June 27, 2012 4:45 PM
To: Pollet, Jolie; Burke, Marcilynn; Farquhar, Ned; Cardinale, Richard
Subject: RE: Potash - O&G Draft Secretarial Order

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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: Pollet, Jolie
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Cc: Barlan, Bryce
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Importance: High

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

Anderson, Michael D

From: Cardinale, Richard
Sent: Wednesday, June 27, 2012 4:00 PM
To: Farquhar, Ned; Burke, Marcilynn
Subject: Fw: Potash - O&G Draft Secretarial Order
Attachments: Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc; Potash-OG.doc (schedule, 6-25-12).docx

Importance: High

Spoke to Janet this morning. BLM feels higher level review is necessary within ASLM - as opposed to the regular process that begins with the analysts. She is concerned about wordsmithing given the extensive involvement to date between the BLM and SOL's office.

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

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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

Internal Review Draft

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,

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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

Anderson, Michael D

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
Attachments: Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc; Potash-OG.doc (schedule, 6-25-12).docx

Importance: High

Marcilynn, Ned and Rich – Janet sent the draft Secretarial Order this morning. Here it is for our review along with the schedule for its release. I haven't seen the hard copy make it up here yet.

I will start reviewing this now.

Thanks.

Jolie

****

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

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

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

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

Hi Rich, Ned, Marcilynn:

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

Also attached is the Departmental schedule, which I sent out to everyone yesterday which was firmed up on Monday night. It is very tight with the holiday. Finalization of the draft SO for release for public comment will

occur next Tuesday, the 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

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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,

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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;
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T. 25 S., R. 31 E.,
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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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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

Anderson, Michael D

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
Attachments: Potash-O&G Secretarial Order, (surname version, 2012 6 27).doc; Potash-OG.doc (schedule, 6-25-12).docx

Importance: High

Hi Rich, Ned, Marcilynn:

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

Also attached is the Departmental schedule, which I sent out to everyone yesterday which was firmed up on Monday night. It is very tight with the holiday. Finalization of the draft SO for release for public comment will occur next Tuesday, the 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

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

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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,

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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.

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

Sec. 9 **Administrative Provisions.** The 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

Anderson, Michael D

From: Barlan, Bryce
Sent: Wednesday, April 18, 2012 9:43 AM
To: Farquhar, Ned
Cc: Cardinale, Richard
Subject: PotAsh and API Letter

Ned,

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

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

If you have any questions, please let me know.

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

Anderson, Michael D

From: Barlan, Bryce
Sent: Friday, September 14, 2012 3:15 PM
To: Farquhar, Ned
Cc: Cardinale, Richard; Anderson, Michael D
Subject: RE: potash and fracturing meetings

Sounds good.

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

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

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

Anderson, Michael D

From: Cardinale, Richard
Sent: Monday, April 30, 2012 3:49 PM
To: Farquhar, Ned
Subject: FW: Potash and Oil and Gas Informational Memorandum
Attachments: Potash-OG.doc (Information Memo, 4-30-12, FINAL).docx

FYi

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)

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)

B. High Economic Costs

- (b) (5)

C. Required State Action

- (b) (5)

D. Procedural Requirements

- (b) (5)

(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

(b) (5)

(b) (5)

Anderson, Michael D

From: Burke, Marcilynn
Sent: Monday, April 30, 2012 2:51 PM
To: Farquhar, Ned
Subject: FW: Potash and Oil and Gas Informational Memorandum
Attachments: Potash-OG.doc (Information Memo, 4-30-12, FINAL).docx

Thanks,

Marcilynn

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

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)

INFORMATION MEMORANDUM FOR THE SECRETARY

April 30, 2012

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CC: David J. Hayes, Deputy Secretary
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SUBJECT: Secretary's Potash Area – Meeting with potash and oil and gas industry representatives

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(b) (5)

ATTACHMENT 1

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

(b) (5)

(b) (5)

Anderson, Michael D

From: Anderson, Michael D
Sent: Tuesday, September 25, 2012 2:26 PM
To: Luckey, Lauren; Lin, Janet H; Cardinale, Richard
Cc: Barlan, Bryce; Farquhar, Ned
Subject: RE: Potash Briefing

Thanks, Lauren!

From: Luckey, Lauren
Sent: Tuesday, September 25, 2012 1:55 PM
To: Lin, Janet H; Cardinale, Richard
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: RE: Potash Briefing

This meeting has been scheduled for Tuesday October 2nd from 1-2pm.

Thanks.

From: Lin, Janet H
Sent: Tuesday, September 25, 2012 12:52 PM
To: Cardinale, Richard
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren
Subject: RE: Potash Briefing

Rich - Sounds good - looping in Lauren who I have been working on with scheduling this meeting. Monday works well - our team is working hard this week.

We have a briefing paper that we are working to finalize now.

From: Cardinale, Richard
Sent: Tuesday, September 25, 2012 12:27 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1st. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

Anderson, Michael D

From: Luckey, Lauren
Sent: Tuesday, September 25, 2012 1:55 PM
To: Lin, Janet H; Cardinale, Richard
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: RE: Potash Briefing

This meeting has been scheduled for Tuesday October 2nd from 1-2pm.

Thanks.

From: Lin, Janet H
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To: Cardinale, Richard
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren
Subject: RE: Potash Briefing

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Sent: Tuesday, September 25, 2012 12:27 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1st. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

Anderson, Michael D

From: Cardinale, Richard
Sent: Tuesday, September 25, 2012 1:10 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren
Subject: RE: Potash Briefing

Excellent. Many thanks, Janet.

From: Lin, Janet H
Sent: Tuesday, September 25, 2012 12:53 PM
To: Cardinale, Richard
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren
Subject: RE: Potash Briefing

Rich – Sounds good – looping in Lauren who I have been working on with scheduling this meeting. Monday works well – our team is working hard this week.

We have a briefing paper that we are working to finalize now.

From: Cardinale, Richard
Sent: Tuesday, September 25, 2012 12:27 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
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Anderson, Michael D

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Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned; Luckey, Lauren
Subject: RE: Potash Briefing

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We have a briefing paper that we are working to finalize now.

From: Cardinale, Richard
Sent: Tuesday, September 25, 2012 12:27 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1st. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

Anderson, Michael D

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

Anderson, Michael D

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.

Rich

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Thanks
Rich

Anderson, Michael D

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.

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To: Cardinale, Richard
Subject: Re: Potash Briefing

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To: Farquhar, Ned
Subject: Potash Briefing

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Thanks
Rich

Anderson, Michael D

From: Cardinale, Richard
Sent: Monday, September 24, 2012 11:24 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

Anderson, Michael D

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.

Weekly Report to the Secretary
Acting Assistant Secretary for Land and Minerals Management
September 6, 2012

I. Personal Message to the Secretary:

As you know, Hurricane Isaac passed through the Gulf of Mexico oil and gas platforms without any significant damage to facilities or pollution incidents. This lack of damage is in part a testament to BSEE's strong safety standards and effective execution of shut-in procedures. Most of the oil and gas production has been returned to normal operations. I commend BSEE employees for their hard work through the storm, particularly given that some of them experienced flooded homes and loss of power. BOEM employees were similarly affected by the hurricane and have likewise weathered it out with firm resolve to continue to serve the American people.

I would like to congratulate the BLM for reaching agreement with a landowner for the first private wild horse and burro ecosanctuary, which is located near Rawlins, Wyoming. This agreement is a significant step forward in implementing the goals you have advocated for in the long-term management of the Wild Horse and Burro Program.

The BLM continues to monitor and report to me on the drought and fire situation. As of September 6, a record high of more than 3.34 million acres of BLM-managed land in the lower 48 states have burned, including 2 million acres of sage-grouse habitat. As of August 16, the fires had impacted 76 grazing allotments, burning more than 50 percent of the acreage in these allotments, over 853,000 acres. As a result, more than 100,000 Animal Unit Months have been lost.

Over the next couple of weeks, I have several trips/engagements planned. On September 12, I will be a guest speaker at Johns Hopkins Energy Policy and Climate graduate program in Washington, DC. The Master of Science program prepares the next generation of interdisciplinary professionals to address the challenges of climate change and sustainable energy systems. I look forward to sharing our energy priorities, particularly renewable energy development, with future leaders in this field. Later that day, I will travel to Sacramento, California, to co-host the 4th annual meeting of the Western Regional Partnership (WRP).

The WRP is an important resource for the Department, the Department of Defense, western states, and tribes to address proactively common goals and identify challenges relating to protecting natural resources, promoting sustainability, and preparing for military readiness. On the first day, I will participate as a principal of this group. The other principals are John Conger of DoD and Governor Herbert. On the second day, I will moderate two plenary sessions: one on endangered species listing, critical habitat, and federal land policy and another on current energy issues with tribes, Federal agencies, states, and industry. These collaborative relationships will help advance our all-of-the-above energy strategy.

I am also preparing for a trip to Alaska, where I will speak on September 19 at the 8th Annual Alaska Oil and Gas Congress at the Canadian Institute. My speech will feature the Department's role in domestic energy production in Alaska. I will also discuss recent successes and ongoing efforts in conventional energy development, such as the upcoming November NPR-A oil and gas lease sale. I look forward to sharing highlights of the trip upon my return.

I want to take a moment to acknowledge Mary Katherine (MK) Ishee's hard work and tireless dedication to the Department. This week MK is preparing for a September 13 House Natural Resources Committee hearing on the Department's Drilling Moratorium Report. In her various positions in the Department over the past 3 ½ years, MK has consistently demonstrated her commitment to the goals and priorities of the Department and to the highest standard of public service. She is a strong and steady hand wherever she serves, and I am confident that she will continue to represent the Department well.

And last, but certainly not least, congratulations on clearly and persuasively articulating our role in this Administration's stewardship of the nation's natural resources and its all-of-the-above energy strategy at the Democratic National Convention!

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

Week of September 10, 2012
Acting ASLM Burke – In the office Sept. 10 and 11. On Sept. 12, deliver presentation to the Johns Hopkins University Energy Policy and Climate Forum in Washington, DC. Travel to Sacramento, CA on the evening of Sept. 12 through Sept. 14, to co-host the Western Regional Partnership annual meeting.
DAS Farquhar – In the office all week.

Week of September 17, 2012
Acting ASLM Burke – Traveling Sept. 17 – 20. Travel to AK on Sept. 14 through Sept. 20 to address the Canadian Institute on September 19 on Federal oil and gas milestones.
DAS Farquhar – (b) (6)

III. Legislative, Legal, and Policy Issues:

- **Atlantic Wind:**
  - On Sept. 5, BOEM received comments from the joint **RI/MA** task force on the draft Proposed Sale Notice (PSN). BOEM intends to publish the PSN in late Sept. On Aug. 28, Cape Wind updated its Avian and Bat Monitoring Plan to address FWS concerns.

  - ASLM began reviewing the **VA** PSN package on Sept. 6. BOEM expects to publish the VA PSN during the week of Sept. 10.

- On Aug. 16, BOEM circulated a draft of the **NC** Call for Information to the task force. As of Sept. 4, BOEM is incorporating comments into the Call. These comments included input from the USCG, NPS, and the State of NC. BOEM deferred decision-making regarding Areas 3 and 4 until after the Call for Wilmington-East, Wilmington-West, and Kitty Hawk are concluded.

- On Aug. 1, Bluewater responded to BOEM's offer for the **DE** negotiated lease. On Aug. 21 and Sept. 6, BOEM held meetings with Bluewater to clarify stipulations. BOEM expects to complete final negotiations and execute the lease by the end of Sept.

- BOEM is currently reviewing the Request for Interest (RFI) for the **NY** unsolicited request for a commercial lease. BOEM anticipates publication of the RFI by early Oct.

- **Shell's 2012 Alaska Drilling Operations, Inspections and Applications for Permit to Drill (APD):** On Aug. 26-27, BSEE inspected the surface portion of the containment system in Bellingham, Washington. Deployment testing by the USCG and the American Bureau of Shipping for the subsurface portion of the containment system is scheduled for Sept. 6. On Aug. 30, BSEE announced that it will allow Shell to move forward in the Chukchi Sea with limited preparatory activities that are in non-oil-bearing zones and can be conducted safely prior to the certification and arrival of the containment system. On Aug. 31, Shell requested a similar limited and preparatory permit for top-hole drilling in the Beaufort Sea from BOEM.

- **BLM-CO White River Field Office Oil and Gas Plan Amendment:** On Sept. 7, the Notice of Availability for public comment on the Draft EIS for the White River Resource Management Plan Oil and Gas Amendment is scheduled to be issued. The Draft EIS analyzes four development alternatives that range from 4,603 new wells on 550 new well pads to 21,200 new wells on 2,556 new well pads. The draft plan amendment also proposes a number of possible state-of-the-art and innovative mitigation measures to minimize impacts to wildlife, air quality, and other sensitive resources. These measures include options for restricting the amount of disturbance within a given area at any one time and the use of air emission control technologies. The comment period ends on Dec. 14.

- **Four Corners Power Plant and Navajo Mine Energy Project EIS:** OSM is currently preparing an EIS for BHP Navajo Coal Company's permit application for the Pinabete Mine permit area in New Mexico. As a result extension requests received during scoping meetings in mid-August, OSM is extending the deadline for receipt of public comments from Sept. 17, 2012, to Nov. 1, 2012.

- **Patriot Coal Corporation and Environmental Groups Reach Agreement on Company's Bankruptcy**: On July 9, Patriot Coal Corporation filed for bankruptcy—the first United States coal producer to do so since coal prices started declining in early 2012. On Sept. 11, a hearing is scheduled on motions in support of transferring the bankruptcy case from the Southern District of New York to the Southern District of West Virginia. Environmental groups have reached an agreement in principle with Patriot concerning its major liability for treating selenium at several mountaintop removal mining operations in West Virginia.

- **Tennessee Lands Unsuitable for Mining Petition:** On Aug. 29, Acting ASLM and OSM met with the TN Attorney General and other state officials, at which time the State clarified the objectives in the Petition and agreed to deliver additional technical information to OSM. On Sept. 10, the State and OSM will conduct a technical meeting to further discus the boundaries of the petition area. OSM plans to use the information gathered in the Aug. 29 meeting and the September 10 technical meeting to refine and finalize alternatives that it will analyze in the EIS for the Petition.

Ongoing Projects:

- OSM-BLM Consolidation Implementation
- Stream Protection Rule
- DOI/DoD Joint Action Plan Implementation
- Onshore orders
- Hydraulic fracturing rule
- Potash Secretarial Order
- Oil Shale PEIS and rulemaking

Submitted by: Marcilynn A. Burke, Acting Assistant Secretary, Land and Minerals Management
Direct Dial: 202-208-2422; Cell: (b) (6)

Anderson, Michael D

From: Cardinale, Richard
Sent: Tuesday, September 25, 2012 12:27 PM
To: Lin, Janet H
Cc: Barlan, Bryce; Anderson, Michael D; Farquhar, Ned
Subject: Potash Briefing

Janet,

Ned would like a briefing on potash next Monday, Oct. 1st. He is available at 10:00, 11:00, 1:00 or 2:00. Would you please coordinate with Michael Anderson in our office to set that up? Thanks.

Rich

Anderson, Michael D

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

Anderson, Michael D

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

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Thanks

Rich

ASLM Weekly Items Due List
November – December, 2012

Reported in Order Due

ITEM (Name, type of document, e.g. reg, GAO/OIG report, etc.)	DATE(S) DUE (and to whom)	ORIGINATING AGENCY	ASLM LEAD	COMMENTS
Nov. 5- 9				
GAO Final Report, Oil and Gas Management: Interior's Reorganization Complete but Challenges Remain in Implementing New Requirements (GAO-12-423)	Final report released 8/29 – DOI will have until 10/29 to respond to GAO.	BOEM/BSEE (BOEM lead)	MKI/NF/JM	BOEM making changes based on ASLM comments on 10/16. Package with MAB. Due to PFM week of 10/15.
Sale 229 lease sale package	Publish in FR no later than 10/29	BOEM	JM/RC/NF/ MB	As of 10/16, BOEM addressing JM/RC/NF edits. ROD not received in ASLM office yet.
40 year service awards		BOEM	JM/RC/NF	Sent back to BOEM for edits on 10/15
OIG recommendation #4	Target – Sept 30 - past	BSEE	JM, MK, NF, MB	Sent back to BSEE for edits on 10/16
NY RFI		BOEM	JM/RC/NF	With JM as of 10/16
Rep. Holt response letter on Arctic		BOEM	JM/RC/NF	With BOEM to address JM/RC/NF edits
Rep. Hinchey response letter on HF		BLM	MB/NF/BB	Proposed response approved by ASLM. Letter will be mailed out around mid-November.
Request for blanket approval for ESP		BOEM	JM, MK, NF, MB	With JM as of 10/16
Report on support of national fish habitat action plan		BOEM	JM, MK, NF, MB	With JM as of 10/16

ITEM (Name, type of document, e.g. reg, GAO/OIG report, etc.)	DATE(S) DUE (and to whom)	ORIGINATING AGENCY	ASLM LEAD	COMMENTS
Surnaming Package for the Secretarial Potash Order	Signing is expected in November.	BLM	BB	BLM has submitted a surnaming package, but does not include the final version of the Comments Analysis document. SOL currently editing the analysis document.
Legislative proposals for renewal of military withdrawals at China Lake, 29 Palms, Chocolate Mountains, and Limestone Hills	TBD	BLM and DOD	KM/RC/NF/ MB	BLM briefed ASLM on Oct. 26. Next steps: MAB to discuss legislation models with Mike Pool, and BLM and ASLM to meet again prior to the ILUCC meeting on Nov. 15.
IG Report on ROWs – rental collection.	10/14 to PFM	BLM	KM/MK/NF/ MB	PFM has ASLM letter.
IG Draft Report on Safety of Dams	10-24 to ASLM. 11-5 to PFM (revised date)	BLM	KM/MK/NF	BLM to meet with ASLM on Friday, 11-2. BLM will bring revised recommendations on 11-2 afternoon.
ILUCC meeting	Mtg Nov. 15. Work on agenda this week			Karen working with Sara Streff at DoD on agenda. Karen and Ned and MAB to meet on Nov. 7
Interim Rules, Carrizo Plain National Monument		BLM	KM/RC/NF/ MB	KM adding one thing to the package. (KM received the revised package on 10-19.)
Meeting with DoD on Sun Zia transmission line				Targeting Nov. 9 or the following week. As of 11-1, BLM is waiting on DoD to suggest some times for the week of Nov. 12.
SNPLMA FY 2011 Annual Report to Congress	ASAP		KM/RC/NF/ MB	NF reviewing this package.
Mtg with Navy on drilling exploratory wells on withdrawn lands	Target mid-Nov.			KM and Tracie are rescheduling the pre-briefing, originally scheduled for Nov. 2. Have not yet set up the meeting with the Navy.
Proposed Withdrawal, Camp Michael Mansoor Mountain WarfareTraining Facility, California.	No deadline.	BLM	KM/RC/NF	KM answering a question on the package.

ITEM (Name, type of document, e.g. reg, GAO/OIG report, etc.)	DATE(S) DUE (and to whom)	ORIGINATING AGENCY	ASLM LEAD	COMMENTS
Congressional Notification for Utah Recreational Lands Act Exchange Proposal, for Uintah, Grand and San Juan counties	ASAP		KM/RC/NF/ MAB	Considering asking BLM for a briefing on this land exchange
DOI Invasive Species Task Force	ongoing	PMB	KM	KM to participate in conference calls and editing documents pertaining to the DOI Invasive Species Strategic Plan
Nov. 12- Nov.16				
ILUCC meeting Nov. 15, 10 -12 am				
Nov. 19- Nov. 23				
Solar competitive leasing regs	BLM will begin surname process in mid-Nov.	BLM	KM/RC/NF	

ITEM (Name, type of document, e.g. reg, GAO/OIG report, etc.)	DATE(S) DUE (and to whom)	ORIGINATING AGENCY	ASLM LEAD	COMMENTS
Nov. 26- Nov.30				

Completed Projects

ITEM (Name, type of document, e.g. reg, GAO/OIG report, etc.)	DATE(S) DUE (and to whom)	ORIGINATING AGENCY	ASLM LEAD	COMMENTS
Virginia Proposed Sale Notice (PSN) for offshore wind	Week of Sept 10 to clear ASLM and week of Sept 17 to publish in Federal Register	BOEM	JM	Completed. ASLM cleared on 9/12. Awaiting Sec. announcement. No timeframe known as of 9/24. JM – reviewed Comm plan; made edits.
Central Gulf Lease Sale 227	ASLM surname preferred by Sept 12 but not needed until Sept 17	BOEM	JM	Completed. ASLM cleared on 9/18. Expecting announcement week of 9/24.
Alaska Trip- Canadian Institute presentation	Trip is week of Sept. 17. Event is Sept. 18	BLM/BOEM/ BSEE	JM/BB	Competed. Final 9/18 ppt on sharepoint.
Brazil Travel package – Herbst/Morris	Travel starts Sept. 23.	BSEE	JM	Completed. ASLM cleared 9/19.
Extension of bid evaluation for sale 216/222		BOEM	JM	Completed. ASLM cleared 9/20.
Withdrawal in Aid of Legislation, Twenty Nine Palms, CA	Deadline for PMB signature is 9/13/2012	BLM	KM/RC/NF	Received this package on 9-6; to PMB on 9-11.
Western Regional Partnership meeting	Sept. 13-14	BLM	KM	Complete 9-13.
Partial Revocation, Power Site 78, CO	No deadline	BLM	KM/RC/SB	8-22 to RC; to PMB 8-30. PMB signed.
Kirtland Air Force Base withdrawal revocation, NM	No actual deadline.	BLM	KM/RC/SB	KM to RC on 8-21. At PMB
Partial withdrawal revocation Power Site No. 126, WA	No deadline.	BLM	KM/RC/SB	8-21 to RC. Back to Karen for q. Ned signed 9-10.

Southern Nevada Public Lands Management Act – Project Approvals	Due to Sec Office Sept. 17.	BLM	KM/RC/NF/MAB	Complete 9-20.
PLO Extension, Granite Chinese Walls Historic Site, OR	Deadline for PMB signature is 9/28/2012	BLM	KM/RC/NF	NF signed on 9-10, to PMB on 9-10.
GAO Draft report, Oil and Gas: Information on Shale Resources, Development and Environmental and Public Health Risks (GA)-12-7332)	Due to ASLM Aug. 14; due to PFM Aug. 17; due to GAO Aug. 27	BLM	MKI/BB/NF	NF/BB will review while on travel Complete. Submitted to GAO on August 27.
Regulatory Agenda for BLM		BLM	BBB	Complete
GAO Draft report, Unconventional Oil and Gas Development, Key Environmental and Public Health Requirements (GAO-12-874)	Due Aug. 20 to GAO	BLM	MKI/BB/NF/JM	Hydraulic fracturing report; no Dept. recommendations but BLM/ASLM have comments – in Dept. review week of Aug. 13th. Completed. Submitted to GAO on August 20.
GAO Final report, on Payments to Counties under Secure Rural Schools Act (GAO-12-775)	Due to ASLM Aug. 23; due to PFM Aug. 31; due to GAO Sept. 14	BLM	MKI/KM/SB	Issued by GAO July 16, 2012
PLO, Limestone Hills Training Area, MT	**deadline for PMB signature is 9/27/2012**	BLM	KM/RC/NF	**With BLM for correction of transmittal memo.**
Annual Assurance statements		BOEM/BSEE	JM/MK	2 packages – one for each bureau.
BLM and OSM Mining Awards	9-26	BLM and OSM	KM	
Departmental Manual 212 DM 33 and 602 DM 1 re: Office of Valuation Services.	Sept. 21	Exec. Sec.	KM	KM needs to find out if BLM is ok with the changes, then forward to RC and NF
Withdrawal extension, East Fork Elk Winter Range, Wyoming	No date,	BLM	KM	To PMB 9-28
Withdrawal petition / application, Buffalo Bill Dam and Reservoir Recreation site, WY	No date.			To PMB 9-28
Partial revocation, Boise-Payette	No deadline		KM/RC/SB	To PMB 9-28
Wild Horse Eco-sanctuary memo for Dep. Secretary		BLM	KM	KM revising

OIG New Horizon recommendation #44- Consider creating a review panel within BOEM to resolve all conflicts regarding info. Requests, mitigation determinations and remediation efforts	Target date Sept. 30 -	BOEM	NF/JM/MKI	Closed 9/27
OIG recommendation 58 and 63 closure request	Mid-sept	BSEE	JM	Closed 9/25
Records production, Uintah lawsuit	Due to DOJ Aug. 31	BLM/SOL	KM	KM has mostly completed.
Rapid Response Transmission Team (RRTT)	?			(meeting Wed Oct. 10 at 9-12 at Rm 5160 to discuss the DOE rule)
VA Beach – PSN/DOD Forum conference travel package	Sept. 27.	BOEM	JM/RC/NF	ASLM cleared 9/26. Neither PSN nor DOD Forum occurred.
Webb letter		BOEM	JM/RC/NF/MB	ASLM cleared 9/25
Reg. Plan		BSEE	JM/MK	ASLM cleared 9/27
Travel package – Denmark - Lusher	Travel starts early Oct.	BSEE	JM/RC	ASLM cleared 9/21
Safety and health assurance statement		BOEM/BSEE	JM	ASLM cleared 10/3
QFRs- Tommy's May 2012 hearing		BOEM	JM/RC/NF	ASLM cleared 10/4
Standards Wkshop –Nov.		BSEE	JM/RC/NF	ASLM cleared 10/10
List of restricted joint bidders		BOEM	JM/RC/NF	ASLM cleared 10/15
Army's Use of Natural gas on military installations.			KM/RC/NF/MB	Met with Army Oct. 4; need to keep following up. Army to reach out next to DOI with questions.
IG Report on Meadowood Farm – Horse Barn	10-22 to PFM	BLM	KM/MK/NF	
IG Report on Mineral Leasing on Indian Lands.	Due to BIA and PFM on 10/16.	BIA	BB/MK/NF/MB	ASLM cleared 10/19. Surnaming package was submitted to BLM on 10/22.
GAO Report on Mineral Revenues (on and off shore)	10/20 to PFM.	BLM	BB/JM/MK/NF	ASLM cleared on 10/22.
QFRs on California Coastal National Monument Expansion, H.R. 4969.	ASAP, received 10-12	BLM	KM/RC/NF	Done

Solar Zone Withdrawal Package		BLM	KM/RC/NF	At PMB
American Jewish Congress – Second Roundtable on Continental Energy Policy, Renewable and Sustainable Energy	Event is Oct 24, 12-3:30 in New York		KM/BB	Completed
Partial revocation, Air Site 189, AK	No actual deadline.	BLM	KM/RC/SB	PMB signed
China Lake Withdrawal extension	No date	BLM	KM /RC	PMB signed, CA withdrew from publication Federal Register notice of application to extend the legislative withdrawal. To RC on 10-11-12
BLM OR/WA State Director Installation Ceremony	11-1	BLM	KM/CC/MB	Talking points and field trip.

Weekly Report to the Secretary
Acting Assistant Secretary for Land and Minerals Management
May 3, 2012

I. Personal Message to the Secretary:

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

Week of May 7, 2012

Acting ASLM Burke – In the office ~~all week~~ May 7 – 10. On annual leave May 11 .
DAS Baca – In the office May 7 - 10. (b) (6)
DAS Farquhar – In the office May 7–10. (b) (6)

Week of May 14, 2012
Acting ASLM Burke – ~~In the office all week~~ (b) (6) Note: On May 17, travel to Santa Fe, NM to speak to the Western Interstate Region of the National Association of Counties.
DAS Baca – On annual leave May 14. In the office May 15 – 18.
DAS Farquhar – In the office all week.

III. Legislative, Legal, and Policy Issues:

- **Atlantic Wind:**
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Ongoing Projects:

- ~~Western Oregon~~
- Stream Protection Rule
- OSM-BLM Consolidation Implementation
- Onshore Royalty Rate Rule
- DOI/DON Joint Action Plan
- GAO High Risk Report
- Extractive Industries Technology Initiative (EITI)

Submitted by: Marcilynn A. Burke, Acting Assistant Secretary, Land and Minerals Management
Direct Dial: 202-208-2422; Cell: (b) (6)

Weekly Report to the Secretary
Acting Assistant Secretary for Land and Minerals Management
~~August 30~~September 7, 2012

I. Personal Message to the Secretary:

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Anderson, Michael D

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?

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.

Anderson, Michael D

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
Office: 202-208-4114
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.

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

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Brief Summary Of Draft Secretary's Order

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II. BACKGROUND

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IIV POSITION of INTERESTED PARTIES

(b) (5)

Anderson, Michael D

From: Barlan, Bryce
Sent: Thursday, June 14, 2012 2:52 PM
To: Farquhar, Ned; Burke, Marcilynn
Subject: RE: Potash Comments

Ned,

Reviewed the Secretarial Order.

(b) (5)

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.

Anderson, Michael D

From: Lin, Janet H
Sent: Tuesday, June 12, 2012 5:23 PM
To: Farquhar, Ned
Subject: FW: Potash Comments
Attachments: 2012 06 08 Draft revised Potash Order JITC.docx

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.

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)

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B. Reinstatement or Renewal of Oil and Gas Leases

(b) (5)

C. Potash Leases

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D. Delineation of Resource Areas

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E. Oil and Gas Drilling

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

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2. Development Areas.

(b) (5)

(b) (5)

3. Maintenance of Buffer Zones.

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4. Unitization and Communitization.

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5. Coordination with the State of New Mexico.

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6. Potash Exploration Licenses and Approvals.

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7. Notice to Potash Lessees.

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F. Access to Maps and Surveys

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IV. Regulatory and Administrative Matters

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V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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

Anderson, Michael D

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.

Secretary's Potash Order

Proposed Path Forward

(b) (5)

Anderson, Michael D

From: Cardinale, Richard
Sent: Wednesday, June 27, 2012 11:40 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.

Anderson, Michael D

From: Burke, Marcilynn
Sent: Monday, April 23, 2012 11:33 AM
To: Farquhar, Ned
Subject: RE: potash meeting

If it's with the Secretary, please ask that we both be included.

Thanks,

Marcilynn

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

From: Farquhar, Ned
Sent: Monday, April 23, 2012 11:32 AM
To: Burke, Marcilynn
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

Anderson, Michael D

From: Barlan, Bryce
Sent: Friday, October 12, 2012 9:12 AM
To: Farquhar, Ned; Cardinale, Richard
Cc: Cunningham, Celina P
Subject: RE: Potash Order
Attachments: Comment analysis 10.9.12paa.docx

Ned/Rich,

FYI – Just wanted to share a copy of the most recent version of the comment analysis document with you. Although it's not the final version with SOL edits, I found it to be useful when reviewing the NOA and the Sec Order.

I know you may have other items on your plates right now, but I hope the documents I've provided you with are adequate to persuade you to initiate your review. ☺

If you do decide to initiate your review, please don't bother editing the comment analysis document since the SOLs are still editing it. I would just use it as a guide for understanding the BLM's rationale in making or not making edits to the Order.

Please let me know if you have any questions.

I'll be passing by just to follow up on this email.

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 5:21 PM
To: Farquhar, Ned; Cardinale, Richard
Cc: Burke, Marcilynn
Subject: RE: Potash Order

For some reason, I have a feeling you don't have the most recent versions.

The attached documents have the same names as the previous documents I shared with you, but I don't think I hit the save button before attaching the docs to the email message.

Please review the version in this email instead.

Bryce Barlan
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From: Barlan, Bryce
Sent: Thursday, October 11, 2012 5:17 PM
To: Farquhar, Ned; Cardinale, Richard
Cc: Burke, Marcilynn
Subject: RE: Potash Order

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
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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
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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.

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. 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.

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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:

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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."

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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

Regulatory Framework: FLPMA, IBLA 92-612, Draft Secretarial Order	
Follow-up Activities: Delete "Co-development may require that the development of the resources occur at different times and from different places."	
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: (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	

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(1) Drilling within the Designated Potash Area
(c) a Drilling Island or single well site established under this Order by the approval and in the sole discretion of the Authorized Officer, after considering any comments or recommendations, timely submitted to the Authorized Officer, by the oil and gas lessee(s) and the affected potash lessee(s).

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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

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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)

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:

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Regulatory Framework:
FOIA

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

Follow-up Activities:
(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)	
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)

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: The BLM will incorporate the substance of the revised Order in the Carlsbad RMP, scheduled to be completed in 2014.	

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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)	

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.

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(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)

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:	

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(b) (5)

Regulatory Framework: MLA, FLPMA, 43 CFR, JITC comments dated 4/5/12, page 2 of 15.

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)

Follow-up Activities:	
Comment Number: 12	**Effect on Small Operators**
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)	
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: 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:	

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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)	

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: 16	**Def.: Drilling Island**
Comment Summary: Definition is inadequate. Add the following language, originally included in the JITC's Consensus Document, to the definition of a Drilling Island, Section 4(g): "the size and shape of a Drill Island defines the areal extent of wellbore penetrations of the potash formations and is to be as small as practical to allow effective oil & gas development while managing impact on potash." This definition underscores the commitment to development of both oil and gas and potash.	
Commenter(s): Yates, IPANM, Manzano, McClellan	
Analysis: (b) (5)	

An area usually 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 and gas resources. The size and shape of a Drilling Island is defined as the area where wellbore penetrations at the potash formations will be allowed and is to be as small as practical to still permit effective oil and gas development while managing impact on potash.

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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)	

(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.	

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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:	

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

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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: 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	

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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

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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.	

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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

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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

(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: 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 (b)(5) 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

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

(b) (5)

Regulatory Framework: 1986 Order	
(b) (5) **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: 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
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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: Since (b) (5) 951, it 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. Th(b) (5) 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. The draft 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) 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.	

(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:

Anderson, Michael D

From: Barlan, Bryce
Sent: Thursday, October 11, 2012 5:21 PM
To: Farquhar, Ned; Cardinale, Richard
Cc: Burke, Marcilynn
Subject: RE: Potash Order
Attachments: 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; Potash - OG Secretary decision memo (10 10 2012)_bb edits 10.10.12.docx

For some reason, I have a feeling you don't have the most recent versions.

The attached documents have the same names as the previous documents I shared with you, but I don't think I hit the save button before attaching the docs to the email message.

Please review the version in this email instead.

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 5:17 PM
To: Farquhar, Ned; Cardinale, Richard
Cc: Burke, Marcilynn
Subject: RE: Potash Order

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
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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~~ (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). (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. (b) (5) (b) (5)
~~t~~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)
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.

(b) (5)

(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) the impact on potash resources; (b) (5)

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

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

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

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

(vi) The requirements of this Order; and

(vii) Any other relevant factors.

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

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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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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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(b) (5)

V. RECOMMENDATION

(b) (5)

VI. DECISION BY THE SECRETARY

APPROVE: ___

DISAPPROVE: ___

COMMENTS: ___

_____

Ken Salazar

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

Anderson, Michael D

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.

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

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

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III. POSITION of INTERESTED PARTIES

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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

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)
(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.

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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)

~~T~~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. (b) (5)
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.

(b) (5)

(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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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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Mike Pool

Acting Director, Bureau of Land Managment

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

Anderson, Michael D

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
Land and Minerals Management
US Department of the Interior
Office: 202-208-4114
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

Anderson, Michael D

From: Lin, Janet H
Sent: Tuesday, May 22, 2012 5:15 PM
To: Herrell, Tony J; Juen, Jesse J; Nedd, Michael D; Fugate, Barbara; Haugrud, Jack; Hawbecker, Karen; Vogt, Vincent N; Cranston, Craig C; Allard, Phil; Farquhar, Ned
Subject: Potash Order
Attachments: PROPOSED REVISION.pdf; LETTER.pdf

Tony and Jesse:

Attached is the draft order and letter. Could you e-mail this to the recipients? We will send via snail-mail the hard copies.

Thanks everyone!

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

MAY 22 2012

Mr. John Mansanti
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

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

Dear Messrs. Mansanti and Smitherman:

Secretary Salazar has asked me to respond to your letter dated April 5, 2012, by which you forwarded the recommendations of the Joint Industry Technical Committee for revising the 1986 Secretarial Potash Order. We greatly appreciate the collaborative work of the Committee, and our meeting on May 1st was extremely helpful in further understanding your proposals.

The Bureau of Land Management (BLM) has worked diligently over the past weeks to draft a revised Secretarial Order that furthers the public interest in fostering concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area in New Mexico. In doing so, we took under consideration the Committee's comments. I am enclosing the proposed draft Order and ask that the Committee notify the BLM of any issues raised by the proposal for your respective industries. In keeping with the Secretary's wish to expedite the process of revising the Order, we would appreciate receiving any response within two weeks from your receipt of this letter. The proposal will subsequently be published in the Federal Register for public notice and comment. I wish to thank you and the entire Committee for your commitment of time and effort to this proposed revision.

Sincerely,

Robert V. Abbey
Director

Enclosure

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.* 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 concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); 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.

Section 3. *Order Revised and Superseded.* The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), 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.

I. Definitions.

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.

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.

Buffer Zone –An area established by the BLM within the Designated Potash Area within which (1) oil and gas operations are generally not allowed due to a BLM determination that oil and gas drilling could constitute a hazard to or interfere with orderly potash mining operations, or (2) 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 and gas operations.

Designated Potash Area – The land area described at Section 3.V. of this Order.

Development Area– An area established by the BLM within the Designated Potash Area,

within which all new oil and gas wells are to be located on one or more specified Drilling Islands. Existing wells may be included within the boundaries of a Development Area. The boundaries of each Development Area will be determined in conformity with Section 3.III.E.1.

Drilling Island – An area established by the BLM within a Development Area, in which all new oil and gas wells that are drilled in connection with leased lands within that Development Area are to be located. Drilling Islands may be located on lands on which existing wells are located.

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.

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.

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.

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. Measured Reserves tonnage is computed from dimensions revealed in workings and drill holes and the grade is computed from the results of detailed sampling. Measured Reserves will be delineated by data points no more than 1½ miles apart if geologic inference shows these projections to be reasonable. Measured Reserves will not be delineated by less than 3 data points that meet all other distance and thickness and grade criteria. Measured Reserves will not be projected further than ½ mile from a data point which meets thickness and quality standards where no projection or geologic inference data exists.

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

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.

II. 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.

III. 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, 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 3.III.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 a substantial and genuine interest in developing the potash resources and that they intend to develop the potash resource in accordance with the applicable diligence stipulations.

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: (1) the Federal Potash leases which are then held; and (2) lands on which exploration activities have been conducted.

a. The areas where active mining operations are currently in progress in one or more ore zones;
b. The area where operations have been completed in one or more ore zones;
c. Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
d. Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
e. Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
f. Those areas that are believed to be Barren Areas; and
g. Those areas that are Unknown Areas.

The Authorized Officer will annually review the information submitted in this regard 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 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 established in Section 3.V. of this Order unless 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 and the drilling will occur: (1) from a Drilling Island established under this Order or a prior Order; or (2) from a Barren Area that has not been designated as a Drilling Island.

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. 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 may include federal oil and gas leases and other federal and non-federal lands.

   b. After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, only 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. 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 the operator or successor operator of a Development Area to ensure that the operator has the technical capability 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 and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location

and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

i. The appropriate location and size of a Development Area and associated Drilling Island to allow economic oil and gas development while limiting impacts on potash resources;
ii. The best available oil and gas drilling and production technology;
iii. The applicable geology of the potash basin and optimal locations to minimize loss of potash ore;
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 factor.

e. Greater flexibility will be applied to designating Development Areas outside of the boundaries of Measured Reserves. No Drilling Island will be established within one mile of any area where approved potash mining operations will be conducted within three years of the date the APD is approved. The Authorized Officer may require affected potash mining operators to furnish a three-year mining plan to inform the Authorized Officer's site selection.

f. For lands that lie outside of Measured Reserves, APDs may be approved outside of a Drilling Island if the lessee demonstrates to the satisfaction of the Authorized Officer that the drilling site is in fact a Barren Area.

g. The Authorized Officer will develop guidelines consistent with this Order for establishing Development Areas. In developing such guidelines, the Authorized Officer may consider comments and reports from the Joint Industry Technical Committee and other interested parties.

3. Maintenance of Buffer Zones.

Approval of APDs for oil and gas wells should be conditioned upon maintenance of applicable Buffer Zones for potash mine workings. Current buffers for Measured Reserves (Potash Enclave) are: ¼ mile for oil wells and ½ mile for gas wells. These offsets will be considered Buffer Zones and will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. 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 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 BLM will use its 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 BLM 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, 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 will continue to have the right to 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 3.III.E. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

6. Exploration Licenses.

   An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the 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. Exploration for potash on lands leased for potash is permitted only with the written

authorization of the potash lessee and the approval by the BLM of an exploration plan in accordance with 43 CFR subpart 3592.

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 or proposal to the current potash lessees and operators in the Designated Potash Area. A list of current potash lessees and 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 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. Maps of potash reserves and resources prepared under the provisions of Section 3.III.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.

IV. 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 Parts 3100, 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 and 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.

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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

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

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

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

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.* 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 concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area.

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); 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.

Section 3. *Order Revised and Superseded.* The Order of the Secretary of the Interior of October 28, 1986 (51 FR 39425), 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.

I. Definitions.

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.

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.

Buffer Zone –An area established by the BLM within the Designated Potash Area within which (1) oil and gas operations are generally not allowed due to a BLM determination that oil and gas drilling could constitute a hazard to or interfere with orderly potash mining operations, or (2) 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 and gas operations.

Designated Potash Area – The land area described at Section 3.V. of this Order.

Development Area– An area established by the BLM within the Designated Potash Area,

within which all new oil and gas wells are to be located on one or more specified Drilling Islands. Existing wells may be included within the boundaries of a Development Area. The boundaries of each Development Area will be determined in conformity with Section 3.III.E.1.

Drilling Island – An area established by the BLM within a Development Area, in which all new oil and gas wells that are drilled in connection with leased lands within that Development Area are to be located. Drilling Islands may be located on lands on which existing wells are located.

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.

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.

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.

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. Measured Reserves tonnage is computed from dimensions revealed in workings and drill holes and the grade is computed from the results of detailed sampling. Measured Reserves will be delineated by data points no more than 1½ miles apart if geologic inference shows these projections to be reasonable. Measured Reserves will not be delineated by less than 3 data points that meet all other distance and thickness and grade criteria. Measured Reserves will not be projected further than ½ mile from a data point which meets thickness and quality standards where no projection or geologic inference data exists.

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

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.

II. 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.

III. 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, 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 3.III.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 a substantial and genuine interest in developing the potash resources and that they intend to develop the potash resource in accordance with the applicable diligence stipulations.

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: (1) the Federal Potash leases which are then held; and (2) lands on which exploration activities have been conducted.

a. The areas where active mining operations are currently in progress in one or more ore zones;
b. The area where operations have been completed in one or more ore zones;
c. Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;
d. Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;
e. Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;
f. Those areas that are believed to be Barren Areas; and
g. Those areas that are Unknown Areas.

The Authorized Officer will annually review the information submitted in this regard 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 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 established in Section 3.V. of this Order unless 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 and the drilling will occur: (1) from a Drilling Island established under this Order or a prior Order; or (2) from a Barren Area that has not been designated as a Drilling Island.

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. 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 may include federal oil and gas leases and other federal and non-federal lands.

   b. After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, only 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. 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 the operator or successor operator of a Development Area to ensure that the operator has the technical capability 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 and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location

and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

i. The appropriate location and size of a Development Area and associated Drilling Island to allow economic oil and gas development while limiting impacts on potash resources;
ii. The best available oil and gas drilling and production technology;
iii. The applicable geology of the potash basin and optimal locations to minimize loss of potash ore;
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 factor.

e. Greater flexibility will be applied to designating Development Areas outside of the boundaries of Measured Reserves. No Drilling Island will be established within one mile of any area where approved potash mining operations will be conducted within three years of the date the APD is approved. The Authorized Officer may require affected potash mining operators to furnish a three-year mining plan to inform the Authorized Officer's site selection.

f. For lands that lie outside of Measured Reserves, APDs may be approved outside of a Drilling Island if the lessee demonstrates to the satisfaction of the Authorized Officer that the drilling site is in fact a Barren Area.

g. The Authorized Officer will develop guidelines consistent with this Order for establishing Development Areas. In developing such guidelines, the Authorized Officer may consider comments and reports from the Joint Industry Technical Committee and other interested parties.

3. Maintenance of Buffer Zones.

Approval of APDs for oil and gas wells should be conditioned upon maintenance of applicable Buffer Zones for potash mine workings. Current buffers for Measured Reserves (Potash Enclave) are: ¼ mile for oil wells and ½ mile for gas wells. These offsets will be considered Buffer Zones and will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. 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 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 BLM will use its 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 BLM 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, 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 will continue to have the right to 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 3.III.E. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the Oil Conservation Division of the State of New Mexico.

6. Exploration Licenses.

   An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the 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. Exploration for potash on lands leased for potash is permitted only with the written

authorization of the potash lessee and the approval by the BLM of an exploration plan in accordance with 43 CFR subpart 3592.

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 or proposal to the current potash lessees and operators in the Designated Potash Area. A list of current potash lessees and 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 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. Maps of potash reserves and resources prepared under the provisions of Section 3.III.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.

IV. 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 Parts 3100, 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 and 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.

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

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

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

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

Section 4. *Administrative Provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilities herein as are determined appropriate.

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

MAY 22 2012

Mr. John Mansanti
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

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

Dear Messrs. Mansanti and Smitherman:

Secretary Salazar has asked me to respond to your letter dated April 5, 2012, by which you forwarded the recommendations of the Joint Industry Technical Committee for revising the 1986 Secretarial Potash Order. We greatly appreciate the collaborative work of the Committee, and our meeting on May 1st was extremely helpful in further understanding your proposals.

The Bureau of Land Management (BLM) has worked diligently over the past weeks to draft a revised Secretarial Order that furthers the public interest in fostering concurrent operations in prospecting for, developing, and producing oil and gas and potash deposits owned by the United States within the Designated Potash Area in New Mexico. In doing so, we took under consideration the Committee's comments. I am enclosing the proposed draft Order and ask that the Committee notify the BLM of any issues raised by the proposal for your respective industries. In keeping with the Secretary's wish to expedite the process of revising the Order, we would appreciate receiving any response within two weeks from your receipt of this letter. The proposal will subsequently be published in the Federal Register for public notice and comment. I wish to thank you and the entire Committee for your commitment of time and effort to this proposed revision.

Sincerely,

Robert V. Abbey
Director

Enclosure

Anderson, Michael D

From: Pollet, Jolie
Sent: Tuesday, June 26, 2012 5:51 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

Anderson, Michael D

From: Burke, Marcilynn
Sent: Thursday, October 04, 2012 12:16 AM
To: Farquhar, Ned
Subject: Re: Potash Order "co-development" definition

Let's discuss

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: Farquhar, Ned
Sent: Wednesday, October 03, 2012 01:42 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. As I said to Barbara, (b) (5)

(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

Anderson, Michael D

From: Hawbecker, Karen
Sent: Wednesday, October 03, 2012 12:13 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. As I said to Barbara, I(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

Anderson, Michael D

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

Anderson, Michael D

From: Fugate, Barbara
Sent: Friday, September 28, 2012 9:56 AM
To: Farquhar, Ned
Cc: Hawbecker, Karen
Subject: Potash order definition of co-development

Ned –

(b) (5)

Thank you.

Barbara

Anderson, Michael D

From: Tompkins, Hilary C
Sent: Thursday, May 10, 2012 5:58 PM
To: Farquhar, Ned
Subject: Re: Potash Sec Order

Mo def. Also call with industry Monday afternoon. Janet Lin has info.

----- Original Message -----
From: Farquhar, Ned
Sent: Thursday, May 10, 2012 05:48 PM
To: Tompkins, Hilary C
Subject: Potash Sec Order

H - am I in the loop for drafts/discussions of May 15 product? Thx, N

Anderson, Michael D

From: Barlan, Bryce
Sent: Friday, June 29, 2012 10:21 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)

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

Anderson, Michael D

From: Burke, Marcilynn
Sent: Thursday, June 28, 2012 5:32 PM
To: Farquhar, Ned
Cc: Pollet, Jolie; Barlan, Bryce
Subject: Re: Potash SO

Sounds good. Thanks Crackerjack!

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: Farquhar, Ned
Sent: Thursday, June 28, 2012 05:30 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

Anderson, Michael D

From: Allard, Phil
Sent: Monday, October 01, 2012 1:57 PM
To: Farquhar, Ned; Fugate, Barbara; Lin, Janet H
Cc: Barlan, Bryce
Subject: RE: potash SO - Comment 33

Ned,

Currently we have this as our response but I am adding in the text in red. Will this work for you? (I am not quite as direct as your text suggested.)

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:	

From: Farquhar, Ned
Sent: Friday, September 28, 2012 3:01 PM
To: Allard, Phil; Fugate, Barbara
Cc: Barlan, Bryce
Subject: potash SO - Comment 33

(b) (5)

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

Anderson, Michael D

From: Allard, Phil
Sent: Monday, October 01, 2012 10:04 AM
To: Farquhar, Ned; Fugate, Barbara
Cc: Barlan, Bryce
Subject: Re: potash SO - Comment 33

(b) (5)

From: Farquhar, Ned
Sent: Friday, September 28, 2012 01:01 PM
To: Allard, Phil; Fugate, Barbara
Cc: Barlan, Bryce
Subject: potash SO - Comment 33

(b) (5)

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

Anderson, Michael D

From: Pollet, Jolie
Sent: Thursday, June 28, 2012 11:54 AM
To: Farquhar, Ned; Barlan, Bryce
Subject: Potash SO - comments
Attachments: Potash-OG Secretarial Order (surname version 2012 6 27)_jp_MAB_bb_notes to ASLM.docx

Ned – Attached is the draft order with comments from Bryce and me. Marcilynn provided editing comments in track changes. I have sent over the editing changes back to BLM, and MAB also said to send BLM some of my comments (but not all of my comments were sent).

We still haven't seen the hard copy, so I don't know what changes may have been made.

Bryce and I will discuss with you at 1.

Thanks.

Jolie

****

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

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

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 the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics. (b) (5)

(b) (5)

c

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

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

f. (b) (5)

(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 tha(b) (5) penetrate the potash formations can be performed. A (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

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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

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(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.

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(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

(b) (5)

(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. (b) (5)

e. Oil and Gas Drilling

(1) Drilling within the Designated Potash Area.

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(2) Development Areas.

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

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

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

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

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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;

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vi. The requirements of this Order; and

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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

(b) (5)

closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining operations will be conducted within three years consistent with the three year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s). (b) (5)

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

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(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.

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(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

(b) (5)

(b) (5)

f. Access to Maps and Surveys

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

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

(b) (5)

(b) (5)

(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.**

Formatted: Keep with next

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.

(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.

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.

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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.

Formatted: Right: 0.44", Line spacing: single

Internal Review Draft

Anderson, Michael D

From: Haugrud, Jack
Sent: Monday, July 02, 2012 5:59 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

Anderson, Michael D

From: Barlan, Bryce
Sent: Tuesday, June 26, 2012 2:09 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.

Anderson, Michael D

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From: Barlan, Bryce
Sent: Tuesday, June 26, 2012 2:03 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

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Sent: Tuesday, June 26, 2012 2:01 PM
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Cc: Farquhar, Ned
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US Department of the Interior
Office: 202-208-4114
Fax: 202-208-6243
bbarlan@blm.gov

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From: Burke, Marcilynn
Sent: Tuesday, June 26, 2012 10:01 AM
To: Farquhar, Ned
Subject: FW: Potash-O&G Secretarial Order - Schedule
Attachments: Potash-OG.doc (schedule, 6-25-12).docx

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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

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Subject: Potash-O&G Secretarial Order - Schedule
Attachments: Potash-OG.doc (schedule, 6-25-12).docx

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6/25/12

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August 11/12	Comment period closes
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Anderson, Michael D

From: Pollet, Jolie
Sent: Monday, July 02, 2012 2:16 PM
To: Cardinale, Richard; Farquhar, Ned
Cc: Barlan, Bryce
Subject: Potash-OG Secretarial Order_jp_bb_notes to ASLM_july_2
Attachments: Potash-OG Secretarial Order_jp_bb_notes to ASLM_july_2.docx

Here is the electronic version of the order with Bryce's and my final comments. I will drop off the hard copy to Rich in a few minutes.

Jolie

(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. (b) (5)

(b) (5)

c.

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

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

f. (b) (5)

(b) (5)

g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells that (b) (5) penetrate the potash formations can be performed. (b) (5) (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.

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) s lease issued for the same lands. (b) (5)

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

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

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

d. Delineation of Resource Areas

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

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

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

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

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

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

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

(7) Those areas that are Unknown Areas; and

(b) (5)

(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)

(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:

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

(b) (5)

(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 potentiallypotentially subject to a unitization agreement supporting the Development Area, provided that the input is provided timely.

(3) Buffer Zones.

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

(b) (5)

(4) Unitization and Communitization.

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

(5) Coordination with the State of New Mexico.

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

(b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees may protest to the NMOCD the drilling of a proposed oil and gas well on Federal lands provided that the location of said well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by NMOCD Order No. R-111, as amended. However, the BLM will exercise its prerogative to make the final decision about whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Designated Potash Area.

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

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

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

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

(c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.f.(2) and (3) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ,

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

(7) Notice to Potash Lessees

An applicant forfor 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 alldata 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, 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.

Journal 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

Anderson, Michael D

From: Burke, Marcilynn
Sent: Tuesday, July 03, 2012 11:57 AM
To: Pollet, Jolie
Cc: Farquhar, Ned; Barlan, Bryce; Cardinale, Richard
Subject: Re: Potash-OG Secretarial Order_to ASLM_july2

I'm ok with the comments. Please delete the ones that you wrote for my benefit, bbarlan2, and PJ6.

With that, I'm surnaming subject to seeing SOL's comments.

Thanks,

Marcilynn

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

On Jul 2, 2012, at 6:26 PM, "Pollet, Jolie" <jpollet@blm.gov> wrote:

> Marcilynn – Here is the electronic version of the draft SO. Ned heard from Jack H, and Jack reports that Hilary hasn't seen their edits yet and she probably won't get to review their edits until tomorrow late morning or early afternoon. Jack suggested you surname subject to review of their edits. He assured Ned he would get the electronic version of their edits as soon as they were available. I will walk over the hard copy package to you now…
>
> Jolie
>
> Desk 202-208-5348
>
> Cell 907-223-6930
>
> <Potash-OG Secretarial Order_to ASLM_july2.docx>

Anderson, Michael D

From: Pollet, Jolie
Sent: Monday, July 02, 2012 6:27 PM
To: Burke, Marcilynn
Cc: Farquhar, Ned; Barlan, Bryce; Cardinale, Richard
Subject: Potash-OG Secretarial Order_to ASLM_july2
Attachments: Potash-OG Secretarial Order_to ASLM_july2.docx

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.

c. (b) (5)

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

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

(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 (b) (5) penetrate the potash formations can be performed.

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

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

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

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

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

m. Unknown Area - An area within the Designated Potash Area where there is an

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

Sec. 5 **Status of Lands.**

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

Sec. 6 **General Provisions.**

a. Issuance of Oil and Gas Leases

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

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

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

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

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

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

b. Reinstatement or Renewal of Oil and Gas Leases

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

c. Potash Leases

(1) All potash permits, licenses and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any (b) (5) 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,

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. (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.

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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