Land and Minerals Management Correspondence Tracking System

Control No:	6780	Correspondence Date:		Receive Date:	7/3/2012
Due Date	7/3/2012				

	First Name	Last name		
From-->			Agency:	BLM
To-->	AS/LM			

ES Number: | Audit Number: | SigLevel: AS

Subject: FEDERAL REGISTER NOTICE OF THE DRAFT ORDER OF THE SECRTARY ON OIL AND GAS AND POTASH DEVELOPMENT WITHIN THE POTASH AREA, EDDY AND LEA COUNTIES, NEW MEXICO

Signature: S/N'D FOR NF BY RTC 7/3; FILE COPY ONLY, COPIES MADE BY RICH

Comments: (LLNM1910000 L13100000.EJ0000)

Reviewers

Names 1:	Pollet, Jolie	7/2/2012	3:	Farquhar, Ned	
Dates 2:	Cardinale, Richard	7/2/2012	4:	Burke, Marcilynn	

Browse | Add | Delete | Save | Search | Due | Rec | Reviewer Report | SigLevel | Names | Quit

Audit | Status

Form 1220-1
(April 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CLEARANCE SHEET

☐ Manual Release
☐ Instruction Memorandum
☐ Information Bulletin
☐ Regulation
☐ Controlled Correspondence
X Other - Secretary's Order

Instructions to Originating Office

Attach to copies of documents being submitted for clearance. List *all* reviewing officials by office code and office title For Bureau-wide Directives, list (560) - Directives Management, both before and after signing official.

Brief Description of Issuance (*include Subject-Function Number and Heading*)

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

SIGN ALL DOCUMENTS IN BLACK INK

TO	SURNAME OR INITIAL	DATE	NON-CON-CUR-RENCE ⏲	COMMENTS
NMSO	By email	6/27/12		
BLM COS		6/29/12		
BLM Director		7/2/2012		
Solicitor, DMR				
Solicitor				
ASLM	TRC for MAB	7/3/12		

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 100-589

To: All Reviewers

From: Phil Allard, Project Manager (BLM)

Through:

Subject: BLM COS
BLM Director
Draft Order of the Secretary on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

Date Received: 6/29/2012

Date of Letter:

WO#: WO-100

Comments: Simultaneous surname with the solicitor's Office

Action	Person	Date
Delivered for Surname to	AS-LM	7/2/2012
Surnamed by	WO-100	7/2/2012
Delivered for Surname to	WO-100	6/29/2012

Note: Correspondence that has no actions associated with it, will not appear in this report

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 100-589

To: All Reviewers

Date Received: 6/29/2012

From: Phil Allard, Project Manager (BLM)

Date of Letter:

Through:

WO#: WO-100

Subject: BLM COS
BLM Director
Draft Order of the Secretary on Oil and Gas and Potash Development Within the Designated Potash Area, Eddy and Lea Counties, New Mexico

Comments:

Action	Person	Date
Delivered for Surname to	WO-100	6/29/2012

Note: Correspondence that has no actions associated with it, will not appear in this report

Final Version w/ MAB comments -JP- 7/3/12

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. (b) (5)

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

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

f. (b) (5)

g. Drilling Island - An area established by the BLM associated with and usually within a Development Area from which all new drilling of vertical, directional, or horizontal wells tha(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

(b) (5)

d. Delineation of Resource Areas

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

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

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

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

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

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

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

(7) Those areas that are Unknown Areas; and

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

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

e. -Oil and Gas Drilling

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

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

(b) (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.

(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 (b) (5) ulemaking, notices to lessees, and orders of the Authorized Officer.

d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.

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

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

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

New Mexico Principal Meridian

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

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

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

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

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

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

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

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

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

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

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

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

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

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

Internal Review Draft

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

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

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

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

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

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

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

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

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

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

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

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

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

Internal Review Draft

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

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

Internal Review Draft

6/28/12

Potash/O&G Draft Secretarial Order Schedule

June 27	Surname package begins circulation - Notice of Availability and Draft SO
June 28	BLM – Director Briefing
June 29 Or July 2	Departmental Briefing
July 3	Finalize documents
July 6	Send documents to the Federal Register
July 12	Rollout/Announcement Distribution of Draft SO to Tribes NOA available at the Federal Register inspection desk
July 13	(whichever is the day after the announcement) Publication of NOA of Draft SO, 30 day comment period begins

Tribal Consultation Meetings

July 17	Kiowa Tribe of Oklahoma
July 18	Comanche Indian Tribe
July 19	Apache Tribe of Oklahoma
July 20	Mescalero Apache
July 24	Ysleta del Sur Pueblo
July 25	Pueblo of Isleta
July 26	Hopi Tribe

August 12	Comment period closes
October 20	Publish final Secretarial Order in Federal Register and make Environmental Assessment available on BLM website

Pollet, Jolie

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

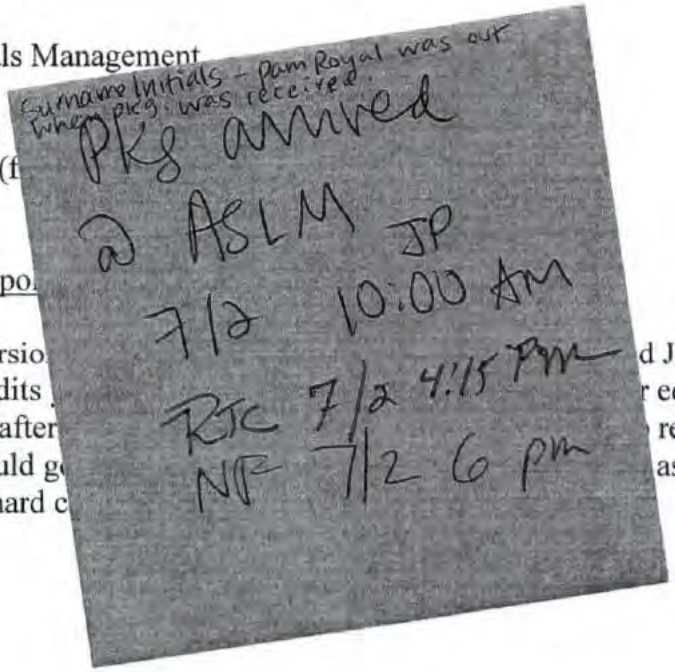
I'm ok with the comments. Please delete the ones that you wrote for my benefit, bbarlan2, and PJ6.

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 (f
Marcilynn_Burke@ios.doi.gov



On Jul 2, 2012, at 6:26 PM, "Pollet, Jolie" <jpo

> Marcilynn – Here is the electronic versio d Jack reports that Hilary hasn't seen their edits r edits until tomorrow late morning or early after review of their edits. He assured Ned he would g as they were available. I will walk over the hard c

Jolie

Desk 202-208-5348

Cell 907-223-6930

<Potash-OG Secretarial Order_to ASLM_july2.docx>

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

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Sec. 6 **General Provisions.**

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(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.

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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)

(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.

(b) (5)

(a

(b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will: (1) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and (2) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island. (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;

(b) (5)

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

(3) Buffer Zones.

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

(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 (b) (5)
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 ~~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.

comment

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 subpar (b) (5)
for inspection at the Carlsbad Field Office, BLM, by any par
permit or lease on the lands on which the well is situated ins
pertinent to the mining and protection of potash deposits.

(2) Maps of mine workings and surface installations and rec
that a potash lessee is required to file pursuant to applicable
(43 CFR 3590) will be available for inspection at the Carlsba
These records are available for viewing by any party holding
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.c.(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) lemaking, notices to lessees, and orders of the Authorized Officer.

d. The BLM will obtain and use the best science available when administering this Order as is consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretarial Order 3305 on Scientific Integrity. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.

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

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

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

New Mexico Principal Meridian

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

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

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

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

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

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

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

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

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

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

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

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

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

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

Internal Review Draft

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

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

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

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

T. 20 S., R. 32 E.

T. 21 S., R. 32 E.

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

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

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

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

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

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

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

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

Internal Review Draft

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

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

Internal Review Draft

Allard, Phil

From:	Herrell, Tony J
Sent:	Wednesday, June 27, 2012 3:02 PM
To:	Allard, Phil
Subject:	RE: NOA for Potash Order
Attachments:	NOA 6 25 12 Potash Order Tony.docx

Very good job Phil, I had just a couple of minor edits or additions—not much at all.

Tony

From: Allard, Phil
Sent: Wednesday, June 27, 2012 9:54 AM
To: Hawbecker, Karen; Blank, Harvey; Fugate, Barbara
Cc: Lin, Janet H; Herrell, Tony J; Juen, Jesse J; Stovall, James K; Kornze, Neil G
Subject: NOA for Potash Order

Here is my first run at the NOA for the Potash Order. As we discussed (at least with the Department), we
(b) (5)

I very much look forward to comments, but will use this version of the document as the starting place for the surname package I am going to put together this afternoon.

Phil

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Order

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

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

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

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

Sec. 4. **Definitions.**

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

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

(b) (5)

c.

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

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

e. Oil and Gas Drilling

(1) Drilling within the Designated Potash Area.

(b) (5)

(2) Development Areas.

(b) (5)

(a)

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

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

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

f. Access to Maps and Surveys

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

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

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

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

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

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

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

c. In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including, (b) (5) ulemaking,

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.,

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM910000 L13100000.EJ0000]

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

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Under the authority of the Mineral Leasing Act, as amended, the Bureau of Land Management (BLM) has prepared a draft Order of the Secretary of the Interior (Secretary's Order) to address oil, gas, and potash leasing and development within the Designated Potash Area in Eddy and Lea counties in New Mexico. The draft Secretary's Order would supersede the current Secretary's Order that addresses those issues. By this notice, the BLM announces the opening of a 30-day public comment period regarding the draft Secretary's Order. The revised guidelines in the draft Secretary's Order are designed to further promote the efficient development of potash, oil, and gas resources, while minimizing conflict between the industries and ensuring the safety of operations. Among other benefits, the revised guidelines are expected to enhance the safety of underground potash miners and allow for full development of oil and gas leaseholds with fewer environmental impacts.

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

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

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

The draft Secretary's Order is available at the following website: http//:www.blm.gov/NM/SecretaryPotashOrder/html [REPLACE WITH REAL INTERNET ADDRESS]

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

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

The Secretarial Potash Order was first issued by the Department of the Interior (Department) in 1939 (4 FR 1012, February 25, 1939). That Order withdrew 43,000 acres of public land from oil and gas leasing in order to protect potash deposits. The Order was amended in 1951 (16 FR 10699, October 18, 1951) to allow for multiple mineral development in a larger area

and established special lease terms for use in both potash leases and oil and gas leases. Such lease terms were designed to facilitate the protection of mineral resources and the safety of miners. The Order was also amended in 1965 (30 FR 6692, May 15, 1965), 1975 (40 FR 51486, November 5, 1975), and 1986 (51 FR 39425, October 28, 1986). A correction to the 1986 Order was issued in 1987 (52 FR 32171, August 26, 1987). The potash area designated by the corrected 1986 Order comprises approximately 497,000 acres, and the draft Order would not alter the boundaries of the area..

The potash deposits in this area occur from 800 feet to over 2,000 feet beneath the surface and are mined by both conventional and solution mining methods; conventional methods require miners to be underground. The oil and gas in the area is found in formations below the potash bearing formations, so oil and gas wells must extend through potash formations. If potash mining breached a well casing, or if a well casing near a potash mine failed for other reasons, gas could enter the mine workings, thus endangering the miners. Additionally, such a breach would raise the costs of potash mining due to the need for enhanced ventilation techniques and specialized equipment needed to mine in a gassy environment. Accordingly, given these safety risks, while potash and oil and gas are found in the same area, they cannot readily be produced at the same time. Thus, there has been a long history of conflict between the potash and the oil and gas industries.

This conflict has resulted in a great deal of litigation in this area regarding decisions made by the BLM on a variety of development applications. Nevertheless, over the past several years, the two industries have initiated efforts to work together. There have been productive meetings and discussions between many of the parties involved in these previous disputes.

Additionally, there have been significant advances in the technology of oil and gas drilling that could be used to reduce the conflict between such drilling and the extraction of potash. Further, the economic outlook for both the oil and gas industry and the potash industry has recently improved. All of these factors have combined to encourage coordination between these two industries. The BLM has also worked with Sandia National Laboratories to investigate well logging technology, gas migration in the potash formations, and standards to use for estimating the mineability of potash and potash cutoff grades. These circumstances have led to this current review of the 1986 Secretary's Order.

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

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

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

under a communitization agreement as authorized under 43 CFR subpart 3105. This would lead to more orderly development of the oil and gas resources in the Development Area and minimize impacts to surface resources and potash resources.

The draft Secretary's Order also defines new terms for classifying lands with regard to their potash values. "Barren Areas" are defined as lands within the designated Potash Area where sufficient data is available to establish that the area lacks mineable potash resources. "Unknown Areas" are areas within the Designated Potash Area where there is an absence of data to classify the potash mineralization of the lands. While Barren Areas may be preferred locations for Drilling Islands, Unknown Areas may warrant protection from oil and gas drilling until such time as data is available to properly classify the potash mineralization.

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

As described in the draft Secretary's Order, wells would be drilled from a Drilling Island established within the Development Area. In most cases, a single Drilling Island would be established for each Development Area. However, when circumstances dictate, BLM could establish additional Drilling Islands. Drilling Islands would be situated in such a manner that extended-reach horizontal wells could access oil and gas within the associated Development Areas. Under the draft Secretary's Order, in areas leased for potash or containing "Measured

Reserves" (i.e., areas where potash is known to exist in sufficient thickness and quality to be mineable), the Development Areas would generally be larger, potentially requiring the most aggressive use of extended-reach horizontal wells. In other areas, Development Areas could be smaller, and the use of extended-reach horizontal wells would likely be less.

By further utilizing a drilling island concept for oil and gas development that was first introduced in the 1986 Secretary's Order, full development of oil and gas leaseholds would occur with less impact to the environment because of the reduction in the number of drill pads and associated roads, power lines, and other ancillary facilities required to develop the oil and gas resource. The safety of the underground potash miners would also be enhanced by a reduction in the number and spacing of oil and gas drilling locations where wells penetrate the potash formation.

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

The provisions in this draft Secretary's Order are consistent with the Department's regulations, onshore orders, and the oil and gas lease form. The Department's existing regulations and onshore orders allow the BLM to impose conditions of approval on permits to drill and require protection of other mineral resources, other natural resources,

environmental quality, life, health, safety, and property. See 43 CFR subparts 3162.1, 3164.1, and 3165.1. The oil and gas lease form (BLM form 3100-11) provides that the rights granted in the lease are subject to the Secretary's subsequent formal orders when not inconsistent with the lease rights. The lease form also provides that lessees will take reasonable measures that BLM deems necessary to minimize adverse impacts to other resources and to other land uses or users. The provisions in the draft Secretary's Order are also consistent with the regulations governing potash leasing, exploration, and development. See 43 CFR part 3500 and subpart 3190.

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

Jesse Juen

New Mexico State Director

AUTHORITY: 43 CFR 3164.1, 43 CFR 3590.2

INFORMATION MEMORANDUM

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

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

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

DATE: June 29, 2012

I. INTRODUCTION

(b) (5)

Brief Summary Of Draft Order

(b) (5)

(b) (5)

II. BACKGROUND

(b) (5)

(b) (5)

III. POSITION of INTERESTED PARTIES

(b) (5)

Land and Minerals Management Correspondence Tracking System

Control No:	4700	Correspondence Date:	12/8/2009	Receive Date:	2/3/2010	Due Date	1/7/2010

	First Name	Last name		
From-->			Agency:	BLM
To-->	AS/LM			

ES Number: ESO-00011575 Audit Number: SigLevel: AS

Subject: SURNAME PACKAGE - URGES THE PROTECTION OF POTASH RESERVES ON FEDERAL LANDS

Signature: SGD BY FARQUHAR 2/7; SNOW DAYS, RECV'D 2/12; CALLED BLM FOR P/U 2/12; H/C'D BY BEVERLY WINSTON 2/12; SGD BY KEN SALAZAR 2/24/2010

Comments: PLEASE EXPEDITE!!

Reviewers

Names	1:	Aird, Brenda	2/4/2010	3:	Farquhar, Ned	2/7/2010
Dates	2:	Cardinale, Richard	2/5/2010	4:	Lewis, Wilma	

Browse | Add | Delete | Save | Search | Due | Rec | Reviewer Report | SigLevel | Names | Quit

Audit | Status

Form 1220-1
(April 1994)

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DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

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ESO-11575 Letter to Sens. Bennet, Chambliss, Lincoln and Cochran, regarding potash protection on federal lands.

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WO320	See Tab 1	1/6	
WO620	See memo	1/11	
WO300		1-11-10	
AD600		1-11-10	
WO100			
OCL	C. Wansour	1-21-10	
SOL	See tab 2 memo		
ASLM	Faythe	2/7/10	

Janet - Ready for your review 1-14-10.
P. Allard

11/14/10

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BY: Brenda Wakefield

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1/14/10

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(TAB 1) mitch Leverette

OFFICE	WO320
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DATE	1/6
OFFICE	WO600CIA
SURNAME	D. Lyon
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OFFICE	WO-300
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DATE	2/7/10

TAB 2

WO-620 Correspondence Official File

(b) (5)

The Honorable Michael F. Bennet
United States Senate
Washington, DC 20510

Dear Senator Bennet:

(b) (5)

(b) (5)

If you have additional questions regarding this letter, please contact BLM Director Robert V. Abbey at 202-208-3801.

Identical letters have been sent to Senators Saxby Chambliss, Blanche Lincoln and Thad Cochran.

Sincerely,

Ken Salazar

bc: SIO:MIB:
ES:MIB:7229
LM:MIB:6628
SOL:MIB:6352
OCL:MIB:6242
LLM:WO620:LS:401
LLM:NMSO
LLM:AD300

LLM:WO620:MIB:5649:BWinston:1/7/10:ESO-11575:3513
RETYPED: LLM:WO620:MIB:5649:BWinston:1/14/10:ESO-11575:3513

Senator Michael F. Bennet
United States Senate
Washington, DC 20510

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Division of Mineral Resources Surname Sheet

Originating Office / Bureau: Bureau of Land Management	**Originating Office / Bureau Document ID #:** BLM / ESO - 11575
Date rec'd: 01/15/2010 **Date due:**	**Division/Branch:** DMR/ Petroleum Resources **Staff Attorney:** Richard McNeer **Assistant Solicitor:** Dennis Daugherty **Associate Solicitor:** Paul Smyth
Type of Document: ***For Secretary's Signature*** -- Letter to Senators Bennet, Chambliss, Lincoln and Cochran re Potash	**Case Name / Subject:** Congressional correspondence / Potash.

Surnamed by:		**Date**
1. Richard McNeer, Attorney	R McNeer	1-22-10
2. Dennis Daugherty, Assistant Solicitor	[illegible]	1-22-10
3. Paul Smyth, Associate Solicitor	[illegible]	1/22/10
4. Ed Keable DOL	[illegible]	1/28/10
5. R Jacobson SOL	[illegible]	2-2-10

Summary of Document: Letter to four Senators regarding the management of the Secretary's potash area in southeastern New Mexico. It summarizes the 1986 Secretarial Order for concurrent development of potash and oil and gas. It also explains the three studies underway by Sandia National Laboratories concerning geophysical well logs, mine safety, and determination of economic potash deposits.

Staff Attorney Remarks (b) (5)

Reviewer Remarks:

Form 1220-1
(April 1994)

UNITED STATES
DEPARTMENT OF THE INTERIOR
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ESO-11575 Letter to Sens. Bennet, Chambliss, Lincoln and Cochran, regarding potash protection on federal lands.

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SOL			
ASLM			

Janet - Ready for your review 1-14-10.
P. Allard

[signature]

R M-Rea
SOL/DMR
10-22-2010

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SOL
minerals
Edits
1/25/10

Senator Michael F. Bennet
United States Senate
Washington, DC 20510

Dear Senator Bennet:

(b) (5)

(b) (5)

If you have additional questions regarding this letter, please contact BLM Director Robert V. Abbey at 202-208-3801.

Identical letters have been sent to Senators Saxby Chambliss, Blanche Lincoln and Thad Cochran.

Sincerely,

Ken Salazar

bc: SIO:MIB:
ES:MIB:7229
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SOL:MIB:6352
OCL:MIB:6242
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LLM:NMSO
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W0100 edits

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United States Senate
Washington, DC 20510

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Senator Michael F. Bennet
United States Senate
Washington, DC 20510

Dear ~~Mr.~~ Senator Bennet:

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LLM:WO620:MIB:5649:BWinston:1/7/10:ESO-11575:3513

Mitchell Leverette/WO/BLM/DOI
01/06/2010 04:25 PM

To Beverly S Winston/WO/BLM/DOI@BLM
cc Mike_Nedd@blm.gov, Tim_Spisak@blm.gov, Benjamin_Martin@blm.gov
bcc
Subject Potash response

History: This message has been replied to.

Bev,

Below is a draft response to the Potash letter. If you have questions, please give me a call.

Bennet_Potash 1-6-10.docx

Mitchell Leverette
Division Chief,
Solid Minerals Division
Bureau of Land Management
1849 C. Street, NW
Washington, DC 20240
(202) 912-7113 (office)
(202) 431-2262 (cell)

United States Department of the Interior

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Washington, D.C. 20240
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(TAB 1) mitch Leverett

OFFICE	WO320
SURNAME	~~STEVE~~ SALOMON
DATE	1/6
OFFICE	WO600 CIA
SURNAME	D. Lynn
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Janet - Ready for your review 1-14-10.
P. Allard

R McNew
Sch/DBR
10-22-2010

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minerals
Edits
1/25/10

Senator Michael F. Bennet
United States Senate
Washington, DC 20510

Dear Senator Bennet:

Thank you for your letter of December 8, 2009, regarding the potash reserves on Federal lands in southeast New Mexico. As always, I appreciate hearing from you.

(b) (5)

(b) (5)

If you have additional questions regarding this letter, please contact BLM Director Robert V. Abbey at 202-208-3801.

Identical letters have been sent to Senators Saxby Chambliss, Blanche Lincoln and Thad Cochran.

Sincerely,

Ken Salazar

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United States Senate

WASHINGTON, DC 20510

471285

December 8, 2009

The Honorable Ken Salazar
Secretary
US Department of the Interior
Washington, DC 20240

RECEIVED
2009 DEC 18 A 9:57
OFFICE OF THE SECRETARY
EXECUTIVE SECRETARIAT

Dear Mr. Secretary:

We write to express our growing concern over an issue of great consequence to the production of food and other agriculture products, namely threats to the continued production of U.S. potash reserves. As you may be aware, potash is one of eight essential nutrients required to sustain human and plant life, and is a primary component of the agriculture fertilizer necessary to grow crops. And, with only three known significant potash deposits in the U.S., and only 25 commercial deposits in the world, the Department of the Interior must ensure that this strategic national resource is protected.

The largest known potash reserve in the United States is found on federal land in New Mexico. This depletion of the useable reserve will have a lasting and significant impact on the food prices and food safety. We are already 85-percent dependent on foreign, imported potash. We can ill-afford to become 100-percent dependent on foreign potash sources for our food supply.

We encourage the Department of the Interior to prioritize the protection of potash and to protect the known potash reserves. We look forward to your response.

Sincerely,

Michael F. Bennet
U.S. Senator

Saxby Chambliss
U.S. Senator

Blanche Lincoln
U.S. Senator

Thad Cochran
U.S. Senator

PRINTED ON RECYCLED PAPER

DRAFT

BRIEFING PAPER

FROM: The Bureau of Land Management
SUBJECT: Oil and Gas, and Potash Conflicts in New Mexico
DATE: January 6, 2010

I. SUMMARY

(b) (5)

NATIONAL SYSTEM OF PUBLIC LANDS

II. CURRENT ISSUES

(b) (5)

(b) (5)

III. BACKGROUND

(b) (5)

CONTACT: Linda Rundell, State Director, BLM New Mexico, (505) 438-7501 and Tony Herrell, Deputy State Director – Minerals, (505) 954-2134

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NATIONAL SYSTEM OF PUBLIC LANDS

(b) (5)

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 600-1369

To: Sens. Bennet, Cochran, Chamblis and Lincoln **Date Received:** 1/7/2010

From: Secretary Kenneth L. Salazar, DOI **Date of Letter:**

Through: **WO#:** WO-600

Subject: Importance of protecting potash reserves on Federal lands. **Comments:**

Action	Person	Date
Delivered to	Solicitor's Office	1/15/2010
Delivered to	OCL	1/15/2010
Surnamed by	Janet Lin	1/14/2010
Received by	WO-100	1/13/2010
Delivered to	WO-100	1/13/2010
Surnamed by	WO-300	1/11/2010
Surnamed by	Celia Boddington	1/11/2010
Delivered to	WO-600	1/11/2010
Completed by	Beverly Winston	1/7/2010
Completed by	WO-320	1/6/2010

Note: Correspondence that has no actions associated with it, will not appear in this report

THE SECRETARY OF THE INTERIOR
WASHINGTON

FEB 24 2010

The Honorable Michael F. Bennet
United States Senate
Washington, DC 20510

Dear Senator Bennet:

Thank you for your letter of December 8, 2009, co-signed by Senators Saxby Chambliss, Blanche Lincoln, and Thad Cochran, regarding the potash reserves on Federal lands in southeast New Mexico.

I appreciate your concern for the protection of these important potash reserves and assure you that the Bureau of Land Management takes particular care in managing concurrent oil and gas drilling and potash mining in this area. The BLM manages concurrent development under a 1986 Order of the Secretary of the Interior titled "Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico."

The 1986 Order contains requirements designed to protect the potash reserves and potash miners, including placing stipulations on oil and gas leases to prohibit drilling that might result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations. When approving the plugging and abandonment of oil and gas wells in the potash area, the BLM ensures that procedures to prevent the infiltration of oil, gas, or water into the potash reserves, the mines, or old mine workings are followed. I believe these measures adequately protect the potash resources.

The BLM is also developing and analyzing new information to help manage this valuable resource. The BLM has contracted with Sandia National Laboratories to conduct three separate, but related, studies within the Secretarial Potash Area. The three studies focus on geophysical well logs, mine safety (gas migration), and mapping of economic potash deposits. They are being conducted in cooperation with stakeholders, including the potash mining and oil and gas industries and the Waste Isolation Pilot Plant. The geophysical study was completed in 2009, and completion of the remaining two studies is expected by the end of 2010. These studies should provide a strong scientific foundation for future management decisions in the Secretarial Potash Area.

Identical letters have been sent to Senators Chambliss, Lincoln, and Cochran.

Sincerely,

Ken Salazar

Ken Salazar

THE SECRETARY OF THE INTERIOR
WASHINGTON

FEB 24 2010

The Honorable Thad Cochran
United States Senate
Washington, DC 20510

Dear Senator Cochran:

Thank you for your letter of December 8, 2009, co-signed by Senators Michael Bennet, Saxby Chambliss, and Blanche Lincoln, regarding the potash reserves on Federal lands in southeast New Mexico.

I appreciate your concern for the protection of these important potash reserves and assure you that the Bureau of Land Management takes particular care in managing concurrent oil and gas drilling and potash mining in this area. The BLM manages concurrent development under a 1986 Order of the Secretary of the Interior titled "Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico."

The 1986 Order contains requirements designed to protect the potash reserves and potash miners, including placing stipulations on oil and gas leases to prohibit drilling that might result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations. When approving the plugging and abandonment of oil and gas wells in the potash area, the BLM ensures that procedures to prevent the infiltration of oil, gas, or water into the potash reserves, the mines, or old mine workings are followed. I believe these measures adequately protect the potash resources.

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Identical letters have been sent to Senators Bennet, Chambliss, and Lincoln.

Sincerely,

Ken Salazar

Ken Salazar

bc: SIO:MIB:
ES:MIB:7229
LM:MIB:6628
SOL:MIB:6352
OCL:MIB:6242
LLM:WO620:LS:401
LLM:NMSO
LLM:AD300

LLM:WO620:MIB:5649:BWinston:1/7/10:ESO-11575:3513
RETYPED: LLM:WO620:MIB:5649:BWinston:1/14/10:ESO-11575:3513

Land and Minerals Management Correspondence Tracking System

Control No: 5509 Correspondence Date: 8/23/2010 Receive Date: 10/12/2010 Due Date

	First Name	Last name	Agency:
From-->	ROBERT P.	JORNAYVAZ, III	BLM
To-->	KEN	SALAZAR	

ES Number: ESO-00021008 Audit Number: SigLevel: AA

Subject: BOARD OF COMPANY THAT MINES POTASH ORE COPIED SEC. SALAZAR ON FOLLOW UP LETTER TO BLM DIR. ABBEY REITERATING REQUEST TO DEFINE "AREAS" FOR MINING, AND APOLOGIED FOR INACCURACIES IN FIRST LETTER

Signature: SGD BY NED FARQUHAR 12/17; H/C'D BY VICKIE BRIGGS 12/20

Comments: BACK TO BRENDA FOR 5 WEEKS, 12 OCT/NOV. NF

Reviewers

Names	1:	Aird, Brenda	3:	Farquhar, Ned	
Dates	2:	Cardinale, Richard	4:		
		10/13/2010			12/17/2010
		10/17/2010			

Browse Add Delete Save Search Due Rec Reviewer Report SigLevel Names Quit

Audit Status

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

TAKE PRIDE IN AMERICA

OFFICIAL
FILE COPY

OFFICE	NMSO
SURNAME	M. Tupper
DATE	8.27.10
OFFICE	WO320
SURNAME	R Vogt
DATE	9/7/10
OFFICE	WO310
SURNAME	
DATE	9/21/10
OFFICE	WO CIA
SURNAME	
DATE	9/21/10
OFFICE	WO300
SURNAME	B. Brown
DATE	9/23/10
OFFICE	WO300
SURNAME	M Willingham
DATE	9/27/10
OFFICE	WO-310
SURNAME	
DATE	9-28-10
OFFICE	WO 600
SURNAME	
DATE	9-29-2010

10/8/10

Ned Farmer 12/17/10

R. Abbey 10.8.10

WO-620 Correspondence Official File

WO-100

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz, III
Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

Intrepid's Proposal to Revise the BLM's Interim Processing Guidelines (IM No. NM-2009-012)

(b) (5)

(b) (5)

The Okerlund Well Demonstrates Why Revision of the Interim Processing Guidelines is Needed

(b) (5)

(b) (5)

Oil and Gas Leases Stipulate No Waste of Potash

(b) (5)

Intrepid's Core Drilling Program

(b) (5)

(b) (5)

(b) (5) Delays in Issuance of Potassium Leases

The Recent Carlsbad Field Office Oil and Gas Lease Sale

(b) (5)

(b) (5)

Yates Petroleum and OXY USA are Seeking to Obtain Potash Leases with the Intention of Wasting the Potash through Oil and Gas Leasing

(b) (5)

(b) (5)

If you have further questions, please contact Jim Stovall, BLM Carlsbad Field Manager, at 575-234-5981.

Sincerely,

Robert V. Abbey
Director

bc: LLM:WO320
LLM:WO310
LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500

300's
edits
BLM 9/27

In Reply Refer To:
3500 (NM920)

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Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
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Sincerely,

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Director

bc: LLM:WO320
LLM:WO310
LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500

(1)

In Reply Refer To:
3500 (NM920)

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

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Robert V. Abbey
Director

bc: LLM:WO320
LLM:WO310
LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500

[redacted]

Vincent Vogt/WO/BLM/DOI
09/07/2010 01:16 PM

To Beverly S Winston/WO/BLM/DOI@BLM
cc Mitchell Leverette/WO/BLM/DOI@BLM, Tim Spisak/WO/BLM/DOI@BLM
bcc
Subject Re: Fw: Controlled Correspondence: 100290 Jornayvaz for surname

Hello Beverly,

Here are my comments on the Jornayvaz letter, in track changes (b) (5) hope this helps. Thanks.

100290-Jornayvaz Letter vogt comments.docx

^^^^^^^^^^^^^^^^^^^^^^^^

Vincent N. Vogt
Solid Minerals Division (WO-320)
BLM Washington Office
202-912-7125 (office)
202-577-5012 (cell)
202-912-7193 (fax)
Benjamin Martin/WO/BLM/DOI

Benjamin Martin/WO/BLM/DOI
08/31/2010 11:41 AM

To Vincent Vogt/WO/BLM/DOI@BLM
cc
Subject Fw: Controlled Correspondence: 100290 Jornayvaz for surname

The other shoe drops - see below

Benjamin (Frank) Martin
Acting Chief and Deputy Division Chief
Solid Minerals- WO-320
202-912-7114 Voice
202-465-5543 Cell
202-912-7193 Fax
Benjamin_Martin@blm.gov

"There are only 10 kinds of people . . . Those who understand binary numbers and those who don't."
----- Forwarded by Benjamin Martin/WO/BLM/DOI on 08/31/2010 11:41 AM -----

Beverly S Winston/WO/BLM/DOI
08/31/2010 11:39 AM

To Mitchell Leverette/WO/BLM/DOI@BLM
cc Benjamin Martin/WO/BLM/DOI@BLM
Subject Controlled Correspondence: 100290 Jornayvaz for surname

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz, III
Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

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Sincerely,

Robert V. Abbey
Director

bc: LLM:WO320
LLM:WO310

LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz, III
Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

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Robert V. Abbey
Director

bc: LLM:WO320
LLM:WO310
LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500

10CC082
3500 (9200)

Mr. Robert P. Jornayvaz, III
Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5) The Potash Area- Protecting America's Only National Potash Reserve

(b) (5) Intrepid is Putting America Back to Work

(b) (5) Intrepid Does Not Seek to Stop All Drilling in the Potash Area

(b) (5) Intrepid's Proposal to Revise the BLM's Interim Processing Guidelines (IM No. NM-2009-012)

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(b) (5)

(b) (5)

If addition information is required, please contact the Carlsbad Field Manager, Jim Stovall, at (575) 234-5981.

Sincerely,

Bob Abbey

NMSO Surname

Michael Tupper/NMSO/NM/BLM/DOI
08/30/2010 10:18 AM

To Olivia Sierra/WO/BLM/DOI@BLM
cc Lisa Morrison/NMSO/NM/BLM/DOI@BLM, Marietta Esquibel/NMSO/NM/BLM/DOI@BLM
bcc
Subject Re: Intrepid response

Olivia/all,

We were aware of the August 23, letter and incorporated it's relevant issues into our reply.

Thanks,
Mike Tupper
Branch Chief
Minerals
(505) 954 2138 Office
(505) 660 7088 Cell

Olivia Sierra/WO/BLM/DOI

Olivia Sierra/WO/BLM/DOI
08/30/2010 07:50 AM

To Marietta Esquibel/NMSO/NM/BLM/DOI@BLM, Lisa Morrison/NMSO/NM/BLM/DOI@BLM
cc Michael Tupper/NMSO/NM/BLM/DOI@BLM
Subject Re: Intrepid response

Thanks Marietta,

On Friday, we received via UPS-overnight, a letter from Intrepid wanting to correct two statement from their July 30 letter (see attached). Would you please review this incoming letter and make any edits (if needed) to our draft response?

100290-Jornayvaz Incoming II-Correction.PDF

Thanks again for all your help with this request.

Olivia Y. Sierra
Correspondence Management Analyst
Bureau of Land Management
Washington, DC 20240
202-208-4294

Marietta Esquibel/NMSO/NM/BLM/DOI

Marietta Esquibel/NMSO/NM/BLM/DOI
08/27/2010 06:36 PM

To Olivia Sierra/WO/BLM/DOI@BLM, Debra Lyons/WO/BLM/DOI@BLM
cc Michael Tupper/NMSO/NM/BLM/DOI@BLM
Subject

Intrepid response

Good afternoon everyone,

Attached is the draft reponse for Intrepid.

[attachment "10CC082_Jornayvaz_Intrepid.docx" deleted by Olivia Sierra/WO/BLM/DOI]

Thank you
Marietta

DEPARTMENT OF THE INTERIOR

TASKING PROFILE

ACCN #:	ESO-00021008	Status:	Closed	Fiscal Year:	2010
Document Date:	**Received Date:**	**Due Date:**	**Action Office:**	**Signature Level:**	**Doc Source:**
08/23/2010	08/31/2010		BLM	AA	IND

To (Recipient): Salazar, Ken

From (Author): Jornayvaz III, Robert P.

Executive Chairman of the Board of Directors
Intreid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202

Subject Text: Board of company that mines potash ore copied Sec. Salazar on follow up letter to BLM Dir. Abbey reiterating request to define "areas" for mining, and apologied forinaccuracies in first letter.

Req. Surnames:

Mail Carrier: PM **Mail Track #:**

Cross Ref:

Copies To: SIO-OES

Status Tracking:

Correspondence Specialist and Phone: SIO-OES

Closed Comments:

Signed:

INTREPID POTASH

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303.296.3006
303.298.7502 fax

Via Overnight Delivery

August 23, 2010

Robert V. Abbey
Director
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Re: July 30, 2010 Letter

Dear Director Abbey:

I am writing to follow up and correct two statements in my letter to you of July 30, 2010.

On page 5, we discussed the core drilling program that Intrepid undertook in 2008-2009. We noted the data that we had provided to the BLM in April, May and June 2009. We also noted that our records do not reflect a response from the BLM to our submission of this data. We need to correct that statement. This morning, we located a letter from Jim Stovall in the Carlsbad Field Office, undated, but that appears to have been received on June 15, 2009 in response to our data submission. In that letter, Mr. Stovall states that, "at face value," the data confirms measured potash ore where the BLM's Potash Resource map showed none. Mr. Stovall goes on to state that the BLM will still not revise its Potash Resource map based on this data because Sandia National Laboratories is conducting a cut-off grade and enclave mapping study. He does state that BLM will "defer" making decisions on APDs "which fall within areas that reasonably could become measured ore." We have asked the BLM for greater definition as to these "areas" based on all of the core data we have submitted and reiterate that request here.

On page 6, we noted the delays we have experienced in obtaining potassium leases from the BLM. We stated that we had been forced to stop mining in certain directions because of these delays. It would be more accurate to state that the delays in issuing potassium leases have caused us to design our mine planning around the absence on certain potassium leases.

We apologize for these inaccuracies in our letter, and any confusion caused thereby.

In closing, we also wanted to make clear that we continue to have a strong, valuable and positive working relationship with the personnel at the BLM's Carlsbad Field Office and appreciate all of their hard work. As we discussed with you, we believe that direction from you on the matters addressed in my July 30 letter will enable the BLM, through its Carlsbad Field Office, to best protect the safety of potash miners, best protect from waste our nation's only strategic potash reserve, and best promote a regulatory environment supportive of the potash producers' continuing investment in high-paying, long-term jobs.

Very truly yours,

Robert P. Jornayvaz III
Executive Chairman of the Board of Directors

cc: Honorable Harry M. Reid, United States Senator, Senate Majority Leader
Honorable Jeff Bingaman, United States Senator
Honorable Ken Salazar, Secretary, U.S. Department of the Interior
Honorable David J. Hayes, Deputy Secretary, U.S. Department of the Interior
Honorable Hilary Chandler Tompkins, Solicitor, U.S. Department of the Interior
Honorable Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior
Jim Stovall, Field Manager, Bureau of Land Management *(via facsimile)*
Craig Cranston, Lead Mining Engineer *(via facsimile)*

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303 296.3006
303 298 7502 fax

Via Overnight Delivery

July 30, 2010

Robert V. Abbey
Director
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Re: July 20, 2010 Meeting with Intrepid Potash, Inc.

Dear Director Abbey:

Thank you for meeting with us on July 20. We appreciate your generosity with your time and that of the other BLM staff members. We believe, as we know you do, that constructive and open dialogue helps avoid misunderstandings and misperceptions.

A. The Potash Area – Protecting America's Only National Potash Reserve

At our meeting, we discussed a number of very important issues. Our discussion, of course, centered around the federally-protected Potash Area in southeastern New Mexico where Intrepid is one of the state's largest federal lessees. We note the obvious first. This area is the federal *Potash* Area, not the federal *Oil and Gas* Area because it is the nation's only strategic potash reserve. Nowhere else in the U.S. are there potash reserves of this magnitude. This is in contrast to oil and gas reserves, which, while undoubtedly important to our nation, can be found throughout the southwestern U.S., among many other domestic locations. As we explained, maintaining a robust, domestic potash supply is absolutely essential to food security and independence and to our nation's biofuels program, a point made by a bipartisan group of Senate Ag Committee members, including leadership, in their letter of December 8, 2009, to Secretary Salazar. **Ex. A.** At present, the U.S. imports 85 percent of its potash. We can scarcely afford to become entirely dependent on foreign potash suppliers.

B. Intrepid is Putting America Back to Work

As I laid out in some detail, consistent with this Administration's highest priority (jobs), Intrepid has made and continues to make extraordinary investment in rural southeastern New Mexico creating hundreds of direct jobs and even more indirect jobs through vendors, supplier, contractors, etc. We are investing hundreds of millions of dollars each year into our New Mexico operations. To pull this country out of recession, it is vital that companies like Intrepid have certainty that federal mineral resources will be properly protected from waste to enable continued investment and job growth. Aside from jobs, it is even more vital that Intrepid's miners are protected from methane gas migration from nearby oil and gas wells so they can go

home each night to their families. We all must do everything possible to avoid a repeat of the horrible West Virginia mine tragedy which showed firsthand the dangers of migrating methane gas.

C. Intrepid Does Not Seek to Stop All Drilling in the Potash Area.

It is absolutely essential that you understand that Intrepid is ***not*** seeking to stop all drilling in the Potash Area, despite false representations made by oil and gas interests for political purposes to the contrary. In fact, every week we work with oil and gas companies to determine if their drilling locations are consistent with protecting miner safety and avoiding waste of potash. Where the locations are consistent with these basic and reasonable ends, we do not object to the drilling. I have enclosed examples of letters we have written to various oil and gas companies consenting to drilling in the Potash Area, one of which was sent just last week. **Ex. B.** You will see familiar names in these letters: Lynx Petroleum, Chesapeake Energy Corporation, Mewbourne Oil Company, and Cimarex Energy Co. We have also enclosed a list of more than one hundred federal oil and gas wells in the Potash Area over the past year that we have not protested. **Ex. C.** We will continue to work in good faith with the oil and gas industry to consent to appropriate drilling.

D. Intrepid's Proposal to Revise the Interim Processing Guidelines

In our meeting, we raised with you our October 16, 2009 letter to you in which we proposed a common sense revision to the Interim Processing Guidelines (Instruction Memo No. NM-2009-012). As discussed in that letter, the BLM often finds itself in the position of evaluating APDs in locations where they think there may be potash (*i.e.*, it is "indicated" or "inferred') but where they are not certain because of a lack of data. At present, the Interim Processing Guidelines allow an APD to be granted in these locations. As I noted in our meeting, we would assume that if the BLM has an "indicated" or "inferred" potash asset worth potentially billions of dollars, it would want to know for certain whether it was truly there or not to avoid unknowingly wasting it, and unwittingly foregoing hundreds of millions of dollars in potash royalty payments. Certainly, our nation's taxpayers are owed at least this much, particularly in these challenging economic times. Bad, incomplete and out of date data only leads to bad management decisions and waste. Responsible stewardship depends on informed management decisions. The status quo of APD approvals being made on the basis of incomplete data unfairly favors oil and gas interests, wastes potash, and risks miner safety. A level playing field based on complete and sound scientific data is essential.

Our October 16, 2009 letter lays out a straightforward process to fill in these data gaps and allow for informed resource management decisions; and is a process to be paid for at industry's, not government or taxpayers', expense. In short, the proposed procedures would afford notice to the potash producer of an APD in one of these "Areas Lacking Potash Data" or "Areas with a Low Density of Core Holes," at which time they either have to elect to drill the needed number of core holes (at their sole expense) and turn over the data to the BLM or choose not to drill any core holes in which case drilling can expeditiously proceed. This simple procedure would provide the BLM the data it needs to make informed resource management decisions and not waste our nation's precious potash reserves. We have spoken to numerous Congressional leaders

about this proposal as well as to others in the Department of the Interior and there is broad support for it.

E. The Okerlund Well Demonstrates Why Revision of the Interim Processing Guidelines is Needed

We have recently seen firsthand why this revision to the Interim Processing Guidelines is needed. Within the last ten days, only by a fortuitous discussion with a BLM representative in the Carlsbad Field Office, our Landman learned that the BLM was inclined to approve an APD for Yates Petroleum, the Okerlund AKI 7 Federal well, in Section 7, T.21 S., R.32 E., Lea County, New Mexico. Ex. D. We were surprised and dismayed to learn this given the following facts:

- Drilling at this location would result in an unmined safety buffer around the well that would waste potash that Intrepid intends to mine from its East mine.
- The well would be approximately one mile from open mine workings of Intrepid's East mine which presents the type of methane gas safety hazard that we all tragically witnessed at the Upper Big Branch coal mine in West Virginia and that has been confirmed by Sandia National Laboratories.
- The location of the well is within Intrepid's life of mine reserve.
- Intrepid's analysis of data from the area demonstrates that the area contains measured ore.
- Intrepid has had a potassium lease modification application covering the south ½ of Section 7, T.21 S., R.32 E pending with the BLM since May 2007.
- The safety buffer for the proposed well would impact the east half quarter of Section 12, T.21 S., R.31 E which is also part of this same potassium lease modification application pending since May 2007.
- The safety buffer for the proposed well would impact Intrepid's federal potassium lease NMNM-0292684, covering the northwest quarter of Section 18, T.21 S., R.32 E. and the northeast corner of Section 13, T.21 S., R.31 E.
- The proposed well would impede access to hundreds of millions, if not billions, of dollars of commercial potash deposits identified by Intrepid through core hole drilling in sections 13 and 24, T. 21S., R. 31E, and in sections 16, 17, 18, 19, 20, 21, 28, 29 and 30, T. 21S, R. 32E.
- This well would be just another board in the fence that the oil and gas industry (and Yates Petroleum in particular) is seeking to build east of Intrepid's East Mine to prevent mining of rich potash reserves eastward.

When asked how the drilling of this well could possibly be approved given the facts, we were told that the drill pad location is an "Area with a Low Density of Core Holes," and, pursuant to the Interim Processing Guidelines, approval of the APD was therefore appropriate.

As the enclosed map reflects, there are two data points (core holes) within 1.5 miles of the proposed Okerlund well. They are the IMC-160 core hole, located in Section 12, T.21 S., R.31 E. at 2640' NSL and 2640' EWL, and the K-153 core hole, located in Section 13, T.21 S., R.31 E, 70' FSL, 70' FEL. Data from both of these core holes are in the BLM's files in the Carlsbad Field Office. The data shows that both core holes meet the thickness and grade standard of 4 feet of 10% K20 as sylvite. Thus, we are presented with precisely the scenario that led us to propose the revisions to the Interim Processing Guidelines. This area is just one data point shy of having the requisite three data points within 1.5 miles of each other.

Had our proposed revision to the Interim Processing Guidelines been in place, we would have received sufficient notice of the BLM's plans to grant an APD at this location and the opportunity to elect to drill a core hole at our expense to enable informed resource management. Instead, we are, frankly, scrambling to analyze this location, plead with the Carlsbad Field Office not to rush to grant this APD, and obtain a permit to drill a core hole at the location of the proposed well. Fortunately, we have a drilling rig in the area and already have an exploration license in Section 7 (Ex. E) so that drilling a core hole quickly is possible, assuming BLM cooperation and consent. Our initial discussions with the Carlsbad Field Office (Craig Cranston) on this issue have been positive and we are optimistic that we will be given the opportunity to obtain the needed data for the BLM by drilling one additional core hole. With this needed data, BLM can make an informed management decision and either allow drilling of the Okerlund well if the location does not have measured ore or not allow drilling if the location has measured ore. Obviously, formalizing this process would create better predictability for both BLM and its lessees.

F. Oil and Gas Leases Stipulate No Waste of Potash

With respect to the Okerlund well, you asked a question about when Yates obtained its oil and gas lease in this area. We wanted to respond to this issue because it is imperative that a few key facts are understood with regard to oil and gas leases in the Potash Area. The answer is September 1985. However, the Secretarial Order in place at the time regarding "Oil, Gas and Potash Leasing and Development within the Potash Area," 40 Fed. Register 51486 (Nov. 5, 1975), provides that oil and gas leases in the Potash Area contain a stipulation that "[n]o wells will be drilled for oil or gas at a location which, in the opinion of the Area Oil and Gas Supervisor, 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." *Id.* at III.A.2. We have made repeated requests to the New Mexico State Office for guidance as to when waste of potash deposits is "undue," i.e., millions of dollars, tens of millions, billions, etc., but have never received any clarification. If there is a standard that the BLM is using for "undue waste," fairness and transparency dictate that it be shared with the potash producers. We also note that the Secretarial Order further provides that "[i]t will be departmental policy to deny approval of most applications for permits to drill oil and gas test wells from the surface locations within the potash enclaves. . . ." *Id.* at III.E.1. Consequently, when Yates Petroleum obtained

these oil and gas leases it was known and understood that drilling may be limited or not allowed at all if it would unduly waste potash or unduly interfere with mining operations. One would assume these limitations were priced into the cost of the lease.

G. Intrepid's Core Drilling Program

We have put in place a core drilling program in the Potash Area to fill in the missing data points in the many locations where we plan to mine that are defined by the BLM as "Areas Lacking Potash Data" or "Areas with a Low Density of Core Holes." We will continue to move forward with that core drilling program. That program, however, does not obviate the need for our proposed revisions to the Interim Processing Guidelines. The reason for this is simple. We do not know and cannot anticipate all of the locations where the oil and gas industry would like to drill in the Potash Area, when they will file their APDs, or when the BLM will review the APDs. Therefore, we may not have our core drilling program perfectly in synch with where the next APD may arise. As the recent Okerlund APD incident showed, without sufficient notice and the right to drill core holes, we are forced to, at a moment's notice, interrupt our drilling program and try to get a drilling rig moved to the needed location with no guarantee that we will be given the right to obtain this data for the BLM. Frankly, this last minute, mad dash approach doesn't serve any of our, or our nation's, best interests.

We described to you the specific core drilling that we undertook, at cost of more than $1 million, in 2008 and 2009 to evaluate the lands east of our East Mine and, in particular, in sections 13 and 24, T. 21S., R. 31E, and in sections 16, 17, 18, 19, 20, 21, 28, 29 and 30, T. 21S, R. 32E. Intrepid drilled seven core holes, all of which showed exactly what Intrepid's analysis of electric logs run in oil and gas wells in this same area showed: measured ore. As we discussed, because of the way that the Sandia National Labs study on elogs was framed (not evaluating their use in a correlative manner), Sandia did not find elogs to be a suitable tool for establishing the exact grade of potash present in the salt. Yet, when we cored these areas we found that, in fact, they did have measured potash ore just as the elogs had indicated. We told you that we had provided this data quite some time ago to the BLM and requested that the BLM revise its resource map to accurately show that this area has measured potash ore. We have checked our records and we provided this data to the BLM in April, May and June 2009. See Ex. F. As we noted in the meeting, we have never received a formal response to the submission of this data, much less a revision of the BLM Resource Map.

BLM recently informed us that they cannot update their Resource Map because they have commissioned Sandia National Labs to undertake a thickness and grade study to determine at what thickness and grade potash is commercial. Putting aside the wisdom of having Sandia National Labs determine what is profitable for Intrepid (a for-profit corporation with public shareholders) to mine, as we discussed, there is a substantial imbalance and unfairness here. If the potash resource map (known to be inaccurate) cannot be updated and corrected with new data while Sandia is undertaking its thickness and grade study, why can APDs continue to be issued on the basis of a map known to be inaccurate and possibly in a state of flux? We appreciate your recognition at the meeting that this was a fair point. We would appreciate your review of this issue.

H. Delays in Issuance of Potassium Leases

We raised with you the inordinate amount of time it is taking BLM to issue potassium leases. We informed you that we have had to stop mining in certain directions because we are waiting on the issuance of a potassium lease. We have enclosed a chart that details the delays in issuing these leases. **Ex. G.** As you will note, we applied for some of these leases more than 3 years ago. This is all the more difficult to understand when you consider that many of these leases are lease modifications or "fringe" leases to our existing leases on which we have current mining operations. We would appreciate whatever you can do to speed up this process.

I. The Recent Carlsbad Field Office Oil and Gas Lease Sale

We also raised with you the recent (July 21, 2010) oil and gas lease sale by the Carlsbad Field Office. We were informed weeks before this sale that the BLM intended to include in the lease sale, two parcels (NM-201007-030 and NM-201007-031), that, without exaggeration, sit in the "Times Square" of potash operations in Potash Area. As the map enclosed as **Exhibit H** shows, the location of these parcels in Sections 33 and 34, T. 21S, R. 30 E., Eddy County, New Mexico lies right in between Intrepid's East and West Mines and Mosaic's Mine. Specifically, the parcels are within 1 mile of Intrepid's open mine works and are shown on Intrepid's three-year mine plan. Moreover, the two parcels are within a potassium lease that Intrepid applied for more than two years ago. Contrary to statements by the New Mexico State Office staff, there are presently no producing wells on the parcels. None. Once again, the BLM's maps of this area were simply inaccurate and outdated. Wells the State Office thought were still producing had been plugged and abandoned years ago. Several days of mad scrambling and repeated phone calls to BLM officials in New Mexico resulted in a reluctant removal of these parcels from the lease sale. Nonetheless, the fact that these parcels were ever thought to be suitable for oil and gas leasing shows precisely the very significant resource management issues that continue to exist in BLM offices in Carlsbad and Santa Fe and is startling given recent tragic events across the country. Clearly, responsible stewardship from Washington is called for here.

J. Yates Petroleum and OXY, USA are Seeking to Obtain Potash Leases with the Intention of Wasting the Potash through Oil and Gas Drilling

Unfortunately, history is repeating itself in the Potash Area. In 1992, Yates Petroleum Corporation and Pogo Producing Company came up with a plan to waste potash through oil and gas drilling without opposition by securing potassium leases on land on which they already had oil and gas leases. Neither company had any experience in the potash industry, no expertise to mine the resource and no intention of actually mining it. Instead, they recognized that if they held both the oil and gas and potassium leases they could waste the potash and there would be no potash producer with standing to object. Yates and Pogo were the high bidder on the oil and gas leases bordering the north and the east edges of the Waste Isolation Pilot Project (the "WIPP"). See **Ex. I.** They then proceeded to make no effort whatsoever to develop the potash resources but, instead, undertook an aggressive drilling program along the east side of the WIPP and in the process wasted more than a billion dollars of potash.

Undeterred, Yates tried this tactic again in an October 2007 BLM potassium lease auction. In that auction, three potassium leases, NMNM-118969 (Section 6, T. 22S.,R. 31E.), NMNM-118970 (N ½, Section 7, T. 22S.,R. 31E.), and NMNM-118971 (S ½, T. 22S.,R. 31E.), were put up for sale. See **Ex. I.** These parcels lie at the northwest corner of the WIPP. The bidding on these leases was most curious. At the auction, Yates bid against Intrepid for first two leases and Mosaic did not bid on either of these leases. Intrepid was the high bidder on these leases. In the auction for the third lease, Mosaic bid against Intrepid but Yates did not bid. At the time, Intrepid thought it odd that Mosaic and Yates did not bid against each other. Facts only recently revealed indicate that there may have been an agreement between Mosaic and Yates relating to the bidding.

In May 1, 2010, the BLM approved an assignment from Yates Petroleum and OXY USA, Inc. (successor to Pogo Production Company) to Western Ag-Minerals Company (a Mosaic subsidiary) of the potassium leases Yates and Pogo obtained in 1992 bordering the WIPP. **Ex. J.** The underlying "Assignment of Potassium Leases" contains language reflecting that the assignment was undertaken pursuant to an "Agreement Incident to Assignment of Potassium Leases" between Yates and OXY USA, Inc. and Mosaic, dated June 29, 2007. This agreement, although expressly referenced in the Assignment, was not submitted to the BLM.

From these facts, it appears that just months before the October 2007 BLM potassium lease auction in which Mosaic and Yates both bid against Intrepid but not against each other there was an agreement about an later assignment of Yates and OXY's potassium leases to Mosaic. All of this may explain exactly why Mosaic and Yates did not bid against each other in the October 2007 auction and calls into serious question whether the federal government was the victim of a big rigging agreement between Mosaic and Yates in *per se* violation of Section 1 of the Sherman Act.

We respectfully encourage the BLM promptly to obtain from Mosaic and Yates a copy of their June 29, 2007 agreement and investigate whether Mosaic and Yates have in the past or are presently working illegally in concert with regard to bidding on federal potassium leases.

In response to the colossal waste of federal potash resources in 1992, the BLM subsequently added diligence stipulations to the federal potassium leases to cause the lessee to take concrete, verifiable and financially significant actions towards developing the potash resources on the leases on a reasonable and fair time line. So, for instance, when Intrepid acquired potassium leases in a lease auction in October 2007, those leases had a diligence stipulation that provides that the lease will terminate unless:

> Within three years: (a) the lease is producing is paying quantities; (b) the lease is part of a "lease block" that is or has been producing in paying quantities; or (c) an approved mining plan is in place.
>
> Within five years: one of the previous three conditions is met and "diligent, substantial construction is being pursued towards completion of a production shaft."

Within seven years: unless condition (a) or (b) above has been fulfilled or a mine production shaft has been completed to the mining level.

Within ten years: unless condition (a) or (b) has been fulfilled.

See Ex. K.

We agree that the diligence stipulations in these leases are fair and appropriate and reasonably protect the BLM (and the taxpayers) from a repeat of Yates and Pogo's 1992 acquisition of potassium leases solely for the purpose of wasting the potash through oil and gas drilling. Potassium leases issued by the BLM since at least 2007 have all had this exact same diligence stipulation.

Given all of the above, we were shocked to learn just last week (since we met with you) from the Carlsbad Field Office that Yates Petroleum and OXY, USA, Inc. are attempting this same scheme again. On May 14, 2007, Intrepid applied for lease modifications and fringe leases to the east of its East Mine, an area that Intrepid proved through its core drilling program, discussed above in Section G, contains world class langbeinite resources. Ex. G. As discussed above in Section H, these lease applications have languished in the BLM's offices for more than three years. Although fringe leases and lease modifications, Intrepid was recently informed that the leases would nonetheless be put up by the BLM for competitive bid. Intrepid found this surprising given that the parcels are near its East Mine, from which the ore can be easily mined, and the nearest potash competitor, Mosaic, has a mine that is more than 10 miles to the west with WIPP located in between Mosaic's mine and the lease tracts. After repeated inquiries to the Carlsbad Field Office, Intrepid was finally informed that the "competitors" who have asked for the leases to be sold at auction are none other than Yates Petroleum and OXY, USA, companies with no potash experience, expertise, or operations. In the immortal words of Yogi Berra, it is "déjà vu all over again."

To make matters worse and, amazingly, given the historical precedence for this type of waste of public resources, Carlsbad Field Office personnel have just informed Intrepid that a particular Interior Department minerals attorney in Albuquerque has instructed that the diligence stipulations for these potassium leases to be competitively offered should be modified to make them less stringent. There is absolutely no policy rationale for such an action and, if true, would certainly result in additional, and entirely avoidable, waste of America's potash.

Specifically, Intrepid was told by the BLM employee that this Interior Department attorney has instructed that the stipulations be revised to remove the 5 year and 7 year mine shaft construction requirements with a mere requirement for initiation of an EA or EIS process for mine construction. We are informed that this attorney is also urging the Carlsbad Field Office to hold the auction for these potassium leases as soon as possible and no later than October 2010. We have no reason to question the veracity of these statements shared with us by a BLM New Mexico employee. This is a dire situation that warrants your immediate attention and intervention.

With all of this background and overhang, the competitive leasing of these potassium leases east of Intrepid's East Mine should be put on hold while this matter can be thoroughly investigated and steps taken to prevent an oil/gas producer from obtaining potassium leases under false pretenses only to waste the potash by aggressively drilling for oil and gas on the leases. In this regard, we note the 2009 investigation by the Office of the Inspector General of the Department of the Interior into bidding on oil and gas leases in Utah by an individual who had no intention of paying for the leases or developing them but had ulterior motives. That party is now facing federal criminal charges.

We truly appreciate your meeting with us and discussing these important matters. We strongly believe these issues warrant your personal involvement and your leadership. There is nothing short of the repeated waste of billions of dollars of finite public resources at issue.

Should you need any additional information and or want to meet to discuss these matters, please let me know. We are always happy to meet with you or your staff to answer any questions you may have about any of these matters.

Very truly yours,

Robert P. Jornayvaz III
Executive Chairman of the Board of Directors

Enclosures

cc: Honorable Harry M. Reid, United States Senator, Senate Majority Leader *(Via Hand- Delivery)*
Honorable Jeff Bingaman, United States Senator *(Via Hand-Delivery)*
Honorable Ken Salazar, Secretary, U.S. Department of the Interior *(Via UPS Overnight Delivery)*
Honorable David J. Hayes, Deputy Secretary, U.S. Department of the Interior *(Via UPS Overnight Delivery)*
Honorable Hilary Chandler Tompkins, Solicitor, U.S. Department of the Interior *(Via UPS Overnight Delivery)*
Honorable Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior *(Via UPS Overnight Delivery)*

Olivia_Sierra@blm.gov

INTREPID POTASH.

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303.296.3006
303.298.7502 fax

Via Overnight Delivery

August 23, 2010

Robert V. Abbey
Director
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Re: July 30, 2010 Letter

Dear Director Abbey:

I am writing to follow up and correct two statements in my letter to you of July 30, 2010.

On page 5, we discussed the core drilling program that Intrepid undertook in 2008-2009. We noted the data that we had provided to the BLM in April, May and June 2009. We also noted that our records do not reflect a response from the BLM to our submission of this data. We need to correct that statement. This morning, we located a letter from Jim Stovall in the Carlsbad Field Office, undated, but that appears to have been received on June 15, 2009 in response to our data submission. In that letter, Mr. Stovall states that, "at face value," the data confirms measured potash ore where the BLM's Potash Resource map showed none. Mr. Stovall goes on to state that the BLM will still not revise its Potash Resource map based on this data because Sandia National Laboratories is conducting a cut-off grade and enclave mapping study. He does state that BLM will "defer" making decisions on APDs "which fall within areas that reasonably could become measured ore." We have asked the BLM for greater definition as to these "areas" based on all of the core data we have submitted and reiterate that request here.

On page 6, we noted the delays we have experienced in obtaining potassium leases from the BLM. We stated that we had been forced to stop mining in certain directions because of these delays. It would be more accurate to state that the delays in issuing potassium leases have caused us to design our mine planning around the absence on certain potassium leases.

We apologize for these inaccuracies in our letter, and any confusion caused thereby.

In closing, we also wanted to make clear that we continue to have a strong, valuable and positive working relationship with the personnel at the BLM's Carlsbad Field Office and appreciate all of their hard work. As we discussed with you, we believe that direction from you on the matters addressed in my July 30 letter will enable the BLM, through its Carlsbad Field Office, to best protect the safety of potash miners, best protect from waste our nation's only strategic potash reserve, and best promote a regulatory environment supportive of the potash producers' continuing investment in high-paying, long-term jobs.

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Honorable Hilary Chandler Tompkins, Solicitor, U.S. Department of the Interior
Honorable Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior
Jim Stovall, Field Manager, Bureau of Land Management *(via facsimile)*
Craig Cranston, Lead Mining Engineer *(via facsimile)*

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Jim Stovall, Field Manager, Bureau of Land Management *(via facsimile)*
Craig Cranston, Lead Mining Engineer *(via facsimile)*

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DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CLEARANCE SHEET

Controlled Correspondence 100290

Instructions to Originating Office

Attach to copies of documents being submitted for clearance. List all reviewing officials by office code and office title.
For Bureauwide Directives, list (550) – Directives and Information Services both before and after signing official.

Letter to **Robert P. Jornayvaz (Intrepid Potash)** regarding concerns from BLM/Intrepid Meeting July 20, 2010 (Potash).

SIGN ALL DOCUMENTS IN BLACK OR BLUE INK

(b) (5)

ROUTING (Begin with Originator) TO	SURNAME OR INITIAL	DATE	NON-CON-CUR-RENCE ≅
New Mexico State Office (NM910)	see attached flag		
Fluid Minerals (WO310)	V Vogt	9/7/10	— unsd
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Communications (AD600)	[illegible]	9.29.10	
Office of the Director (WO100)	[illegible] 10/8/2010	R. Abbey	10.8.10

K. Allwood 10/5/10

Craig Mitchum

(b) (5)

10/8/10

Deb

Please call Olivia Sierra (202-208-4294) for pick-up if edits required. Otherwise, please update Director's tracking sheet and hand-deliver to next office code on clearance sheet.
RETURN TO WO-600 Correspondence, MIB-5649, for Requested Edits or Preparation of Final Package.

10/8 Rich will need by Ned

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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http://www.blm.gov

TAKE PRIDE IN AMERICA

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz, III
Executive Chairman of the Boards of Directors
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5) Intrepid's Proposal to Revise the BLM's Interim Processing Guidelines (IM No. NM-2009-012)

(b) (5)

The Okerlund Well Demonstrates Why Revision of the Interim Processing Guidelines is Needed
(b) (5)

Oil and Gas Leases Stipulate No Waste of Potash
(b) (5)

Intrepid's Core Drilling Program
(b) (5)

Delays in Issuance of Potassium Leases
(b) (5)

The Recent Carlsbad Field Office Oil and Gas Lease Sale

(b) (5)

Yates Petroleum and OXY USA are Seeking to Obtain Potash Leases with the Intention of Wasting the Potash through Oil and Gas Leasing

(b) (5)

(b) (5)

If you have further questions, please contact Jim Stovall, BLM Carlsbad Field Manager, at 575-234-5981.

Sincerely,

Robert V. Abbey
Director

bc: LM:MIB6628
LLM:WO320
LLM:WO310
LLM:NMSO

LLM:WO600:MIB:5649:OSierra:08/30/10:100290:3500
LLM:WO600:MIB:5649:JBerry:10/8/10:100290:3500

Land and Minerals Management Correspondence Tracking System

Control No: 4735 Correspondence Date: Receive Date: 2/22/2010 Due Date 3/1/2010

First Name Last name Agency: BLM

From-->

To--> AS/LM SigLevel: AS

ES Number: Audit Number:

Subject: SURNAME PACKAGE - LETTER TO ROBERT P. JORNAYVAZ REGARDING CONCERNS OVER RESOURCE DEVELOPMENT IN OIL AND GAS POTASH CONFLICTS

Signature:

Comments:

Reviewers

Names 1: Aird, Brenda 2/23 Aird 3: Farquhar, Ned

Dates 2: Cardinale, Richard 3/26/10 4: Lewis, Wilma

d Minerals (WO310)	C.V.K.	12/11/09	
d Minerals (WO320)	[illegible]	12/16/09	
bie Lyons (WO620)	[illegible] *	1/25/10	
erals & Realty Management (AD300)	[illegible]	1-5-10	
nmunications (AD600)	[illegible]	1-25-2010	
ice of the Director (WO100)	R. [illegible]	1-28-10	
	See attached	2/3/10	

— Tim — Let's talk. Deb Lyons

* Richard McNeer (SOC) Sue Umschler (Reg. SOC) & NM SO rewrote/surnamed (See inside)

1/25/10

(b) (5)

Deb Lyons

se call ~~Olivia Sierra (202-912-7435~~ ector's tracking sheet and hand-deliver to next

e code on clearance sheet.

URN TO WO-620 Correspondence, age.

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 600-1327

To: Robert P. Jornayvaz

From: Robert V. Abbey, Director, BLM

Through:

Subject: Regarding concerns over resource development in Secretary's Potash Area

Date Received: 12/10/2009

Date of Letter:

WO#: WO-600

Comments: Return to WO620, Olivia Sierra (912-7435) or Debbie Lyons (208-7301), 401 LS.

Between 1/5/10 and 1/25/10 the letter was re-written by Richard McNeer (SOL) and Sue Umschler (NM Regional SOL) and surnamed by NM State Director Linda Rundell.

Action	Person	Date
Returned for surname	WO-100	1/27/2010
Ret. For Editorial Changes	Debra Lyons	1/26/2010
Surnamed by	Janet Lin	1/25/2010
Delivered for Surname to	Janet Lin	1/25/2010
Received by	Johanna Munson	1/25/2010
Delivered for Surname to	WO-100	1/25/2010
Surnamed by	Craig Leff	1/25/2010
Delivered for Surname to	WO-600	1/25/2010
Surnamed by	Debra Lyons	1/25/2010
Surnamed by	Tim Spisak	1/5/2010
Delivered for Surname to	Debra Lyons	12/17/2009
Surnamed by	WO-320	12/16/2009
Delivered for Surname to	WO-320	12/16/2009
Delivered for Surname to	WO-310	12/10/2009

Note: Correspondence that has no actions associated with it, will not appear in this report

BLM Director's Office Correspondence Tracking Sheet

Received by Olivia Sierra 12/9/2009

Note: Correspondence that has no actions associated with it, will not appear in this report

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
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OFFICE	WO-600C1A
SURNAME	D Lyons
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SURNAME	
DATE	1-25-10
OFFICE	100
SURNAME	
DATE	1-25-10
OFFICE	WO 100
SURNAME	R Abbey
DATE	
OFFICE	SOL
SURNAME	
DATE	2/3/10
OFFICE	
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DATE	

See clearance sheet on file

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5)

(b) (5)

If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely, (b) (5)

Robert V. Abbey
Director

Enclosures

bc: LLM:WO620:LS:401
LLM:NM912
LLM:NM920:THerrell
SOL:Richard McNeer:MIB 4225
NM Regional Solicitor:Sue Umschler

LLM:NM920:THerrell:WO620:LS:401:OSierra:12/10/09:090362:3500
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SOL edits

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5)

(b) (5)

If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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MAB
Edits
1/29/10

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

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In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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Tim Spisak/WO/BLM/DOI
01/25/2010 04:23 PM

To Debra Lyons/WO/BLM/DOI@BLM
cc Phil Allard/WO/BLM/DOI@BLM
bcc
Subject Re: Intrepid letter

(b) (5)

I'm okay with the letter as written (

(b) (5)

Thanks

****
Timothy 'Tim' R. Spisak
Deputy Assistant Director,
Minerals and Realty Management, WO-300
DOI-Bureau of Land Management
1849 C St., NW; MS-5625
Washington, D.C. 20240
Tim_Spisak@blm.gov
(202) 208-4201 office
(202) 208-4800 fax
(202) 251-3079 cell
****

Debra Lyons/WO/BLM/DOI

Debra Lyons/WO/BLM/DOI
01/25/2010 02:38 PM

To Tim Spisak/WO/BLM/DOI@BLM, Phil Allard/WO/BLM/DOI@BLM
cc
Subject Intrepid letter

[attachment "090362-Jornayvaz_Letter.docx" deleted by Tim Spisak/WO/BLM/DOI]

This version of the letter was re-written by Richard McNeer (SOL) and Sue Umschler (NM Regional SOL) and surnamed by NM SD Linda Rundell. I am ready to drop off with Celia now, and expect it to be with Director's Office this afternoon.

Deb

Debbie Lyons
Supervisor
Correspondence, International, and Advisory Office
Bureau of Land Management (WO-600)
(202) 208-7301

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5)

(b) (5)

If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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Lisa Morrison/NMSO/NM/BLM/DOI
01/21/2010 02:58 PM

To Debra Lyons/WO/BLM/DOI@BLM
cc Tony Herrell/NMSO/NM/BLM/DOI@BLM
bcc
Subject RE: Intrepid Potash letter

History: This message has been replied to and forwarded.

(b) (5)

Hi Debbie. The Intrepid potash response has been reviewed and approved by our State Director Linda Rundell. Please let me know if you need anything else on this... Lisa

Lisa Rivera Morrison
Legislative Specialist
Bureau of Land Management
New Mexico State Office
(505) 954-2023

Debra Lyons/WO/BLM/DOI

Debra Lyons/WO/BLM/DOI
01/20/2010 03:15 PM

To "McNeer, Richard" <Richard.McNeer@sol.doi.gov
cc "Juen, Jesse" <Jesse_Juen@blm.gov>, "Morrison, Lisa" <Lisa_Morrison@blm.gov>, "Umshler, Sue" <Sue.Umshler@sol.doi.gov>, "Herrell, Tony" <Tony_Herrell@blm.gov>
Subject RE: Intrepid Potash letter

Thank you.

Lisa,

Please provide me with an email consolidating NM State Office surname on the attached version.

Thanks.

Debbie Lyons
Supervisor
Correspondence, International, and Advisory Office
Bureau of Land Management (WO-600)
(202) 208-7301
"McNeer, Richard" <Richard.McNeer@sol.doi.gov>

"McNeer, Richard" <Richard.McNeer@sol.doi.gov>
01/20/2010 02:42 PM

To "Lyons, Debbie" <Debra_Lyons@blm.gov>
cc "Morrison, Lisa" <Lisa_Morrison@blm.gov>, "Umshler, Sue" <Sue.Umshler@sol.doi.gov>, "Juen, Jesse" <Jesse_Juen@blm.gov>, "Herrell, Tony" <Tony_Herrell@blm.gov>
Subject RE: Intrepid Potash letter

Debbie:

Attached is the letter with the edits made by Sue and me in track changes. I have received no further comments on the draft, so if it is acceptable to you, it can go out.

Richard

From: Lyons, Debbie
Sent: Wednesday, January 20, 2010 1:08 PM
To: McNeer, Richard; Herrell, Tony; Juen, Jesse
Subject: Intrepid Potash letter

Richard,

Did you have a chance to consult with Sue on the draft of the Intrepid potash letter? Jesse Juen mentioned he saw you had developed something, but I don't know exactly what. When we last spoke, you were going to work with Sue on a draft that was acceptable to the two of you, and then I would re-surname through NM. Please let me know the status. Thanks.

Debbie Lyons
Supervisor
Correspondence, International, and Advisory Office
Bureau of Land Management (WO-600)

(202) 208-7301 090362-Jornayvaz_Letter rm seu revisions.docx

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

(b) (5)

(b) (5)

If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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LLM:NM920:THerrell

LLM:NM920:THerrell:WO620:LS:401:OSierra:12/10/09:090362:3500
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In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, Colorado 80202

Dear Mr. Jornayvaz:

(b) (5)

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(b) (5)

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey
Director

Enclosures

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United States Department of the Int

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

(see attached)

310/320/300 Summaries

CIAL
COPY

WO310	
SURNAME	E.K.
DATE	12/11/09
OFFICE	WO-320
SURNAME	BJ Mart-
DATE	12/16/2009
OFFICE	WO300
SURNAME	
DATE	1-5-10
OFFICE	
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COPY FOR THE SECRETARY'S OFFICE

In Reply Refer To:
3500 (NM920)

Mr. Robert P. Jornayvaz III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, ~~CO~~ Colorado 80202

Dear Mr. Jornayvaz:

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Concurrent development

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Correlative Rights as Outlined in the 1986 Secretary's Potash Order

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Concurrent Development and Drill Islands

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Safety and the Sandia Studies

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If you have further questions, please contact Mr. Tony Herrell, BLM New Mexico Deputy State Director, at 505-954-2134.

Sincerely,

Robert V. Abbey

Director

Enclosures

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LLM:NM912
LLM:NM920:THerrell

LLM:NM920:THerrell:WO620:LS:401:OSierra:12/10/09:090362:3500

(b) (5)

NATIONAL SYSTEM OF PUBLIC LANDS

(b) (5)

INTREPID

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303.296.3006
303.298.7502 fax

May 12, 2009

Bureau of Land Management
Carlsbad Field Office
620 East Greene Street
Carlsbad, New Mexico 88220

Attention: Mr. Jim Stovall and
Mr. Craig Cranston

Re: Core Hole Data IP-048

Gentlemen:

This letter is to serve as notice of Intrepid's findings from the Third Ore Zone in core hole IP-048 (east of Intrepid's East Mine). The accompanying report documents the assays of five core holes recently drilled by Intrepid. These wells have found significant (measured ore) langbeinite and sylvite ore in multiple zones including but not limited to the tenth and third ore zone. Not all of the ore zones have been assayed to date but I felt it imperative to provide an interim report of our findings.

The drilling of core hole IP-048 establishes significant enclave as per BLM criteria of three or more core holes within one and one half mile of each other with measured ore (four feet of 4% or greater K2O as langbeinite) in the same ore zone (Third Ore Zone). I am including a map that illustrates the Van Sickle geometry.

We are currently drilling core hole IP-047. Should we encounter measured ore in the Third Ore Zone in this core hole, enclave will be established further to the east. This is illustrated on the accompanying map as the grey area that connects to core hole PCA-135.

I am also including a plot of our high resolution elog for IP-048. This log details our correlations and graphically present the mineral constituents encountered in the Third Ore Zone.

Sincerely,
Intrepid Potash, Inc.

James P. Lewis
Chief Geologist
/jl
Encl.

Bureau of Land Management
RECEIVED
MAY 18 2009
Carlsbad Field Office
Carlsbad, NM

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303.296.3006
303.298.7502 fax

May 12, 2009

Bureau of Land Management
Carlsbad Field Office
620 East Greene Street
Carlsbad, New Mexico 88220

Bureau of Land Management
RECEIVED

JUN 08 2009

Carlsbad Field Office
Carlsbad, NM

Attention: Mr. Jim Stovall and
Mr. Craig Cranston

Re: Core Hole Data IP-047

Gentlemen:

This letter is to serve as notice of Intrepid's findings from the Third and Tenth Ore Zones in core hole IP-047 (east of Intrepid's East Mine). The accompanying report documents the assays of six core holes recently drilled by Intrepid. These wells have found significant (measured ore) langbeinite and sylvite ore in multiple zones including but not limited to the tenth and third ore zone. Not all of the ore zones have been assayed to date but I felt it imperative to provide an interim report of our findings.

The drilling of core hole IP-047 furthers establishes significant enclave as per BLM criteria east of our East Mine. Not only does this core hole tie into Intrepid's other recently drilled core holes it also extends enclave eastward to PM 16-1 and PCA-135 in the Tenth Ore Zone.

I am also including a plot of our high resolution elog for IP-047. This log details our correlations and graphically present the mineral constituents encountered in the Third Ore Zone and Tenth Ore Zones.

I would like to setup a meeting to present all of our findings in this core drilling program. I will call and we can discuss dates that will work for all of us.

Sincerely,
Intrepid Potash, Inc.

James P. Lewis
Chief Geologist
/jl
Encl.

Enclosure 2

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carlsbad Field Office
620 E. Greene St.
Carlsbad, New Mexico 88220-6292

IN REPLY REFER TO:
NMNM 120817

April 2, 2009

Katie Keller
Intrepid Potash
707 17th Street, Suite 4200
Denver Co. 80202

Dear Katie:

We completed the environmental analysis for your proposed core holes IP-45 thru IP-48. You are authorized to begin construction of the roads and pads and begin drilling as per your exploration plan under Exploration License NMNM 120817.

The stipulations attached to the Exploration License remain in effect for this project.

As with the previous core holes approved under this license, the caliche used in the construction of the road and pads shall be removed when BLM determines it is no longer needed for this project. The caliche purchased for use on this project belongs to Intrepid and at the end of this project you may use the caliche as you wish.

No surface disturbance beyond that described for the project is allowed on Federal lands.

BLM requires notification prior to certain activities so we can have an inspector on site. These are:

Spudding the well, but after the rig is set-up.	1 Day prior
Hole reaching the top of salt.	8 Hours prior
Beginning of core runs.	8 Hours prior
Coring each ore zone.	4 Hours prior
Running geophysical logs	4 Hours prior
Plugging the hole at each stage	4 Hours prior
Abandonment of the location	1 Day prior

It is required that Intrepid potash make available to the BLM a portion of the each sample assayed. The sample sized shall be large enough that BLM can have an independent lab run an assay by wet chemical analysis procedures. The sample size shall be large enough to allow for the analysis of Potassium, Chlorine, Sodium, Sulfate, Magnesium, and Calcium. The purpose of this requirement is to begin the process of verifying the use of X-Ray Diffraction (XRD) as a suitable technique for analyzing the quality of potash mineralization in the Carlsbad Mining District. It is to your advantage that the samples provided to BLM are highly representative of the sample run by XRD. The samples provided shall be tagged in a manner that they can be compared to the sample analyzed by XRD.

We also highly recommend you contact Multiple-Use Development (MUD), the participant in this project, prior to drilling the core hole. MUD may want to have their geologist observe the coring process. Open, professional relationships are very important when two industries have opposing views on issues.

If you have any questions relating to this matter please contact Craig C. Cranston in the Carlsbad Field Office.

Sincerely,

Jim Stovall
Manager, Carlsbad Field Office

Enclosure 1

OFFICIAL FILE COPY

TAKE PRIDE IN AMERICA

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Pecos District
Carlsbad Field Office
620 E. Greene
Carlsbad, New Mexico 88220-6292
www.blm.gov/nm/st/en.html

In Reply Refer To:
3500 (P0220)

JUN 15 2009

Robert P. Jornayvaz, III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202

Dear Mr. Jornayvaz:

The Bureau of Land Management (BLM) has received Jim Lewis's letter dated May 12, 2009 transmitting the results of Intrepid's recent exploration activities in T21S, R32E. The information has been reviewed and at face value, using the Van Sickle criteria, the ore found in the Third Ore Zone represents measured ore. In the past, Jim Lewis has requested that the BLM re-evaluate the enclave boundary in this area to reflect the new data as it comes in. The problem with BLM re-evaluating the enclave is complying with the Interior Board of Land Appeals' (IBLA) September 29, 2008 affirmation of its IMC Kalium, 170 IBLA 25 (2006) mandate for BLM to update the cut-off grade within the Secretary's Potash Area.

The cut-off grade and enclave mapping study was contracted through Sandia National Laboratories (SNL). Until the SNL study is complete, BLM does not have a cut-off standard recognized by IBLA with which to compare the new data. Comparing the data to the Van Sickle Standard could lead to further litigation or put the BLM in contempt of court. This is not the direction BLM wants to go.

At this time, BLM can't update the potash enclave until a new cut-off grade is determined. However, to protect the rights of both the oil and gas lessees and the potash producers, BLM will defer making decisions on all future Applications for Permit to Drill (APDs) which fall within areas that reasonably could become measured ore. As new data points are established, they will be added to our data set. If the new data points contain ore that reasonably could become measured ore, these areas will be added to the lands where APDs will be deferred until the cut-off standard is revised.

Deferring decisions on APDs located in these areas complies with the conditions set forth in the Interim Operating Guidelines established by BLM on December 19, 2006 and reissued on March 13, 2009 for lease operations prior to the completion of the cut-off study.

We have enjoyed working with Intrepid on issues that affect potash mining and hope to continue working closely on all important issues. Please contact this office, 575-234-5972, if you have questions concerning this matter.

Sincerely,

/s/ James Stovall
James Stovall
Field Manager

bcc:
NM 9120 (M. Esquibel)

P0220:JStovall:nh:6/15/09:*Letter.6/01/09.Stovall to Jornayvaz.Changing Enclave Prior to Completing Sandia Study*

Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202
303.296.3006
303.298.7502 fax

Via Overnight Delivery and Email

October 16, 2009

Robert V. Abbey
Director
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

Re: BLM Instruction Memorandum No. NM-2007-011

Dear Director Abbey:

I am the Chairman of the Board and Chief Executive Officer of Intrepid Potash, Inc. ("Intrepid"), the largest producer of potash in the United States. First of all, congratulations on your appointment to serve as the Director of the BLM. As you may or may not know, Intrepid is one of two potash producers with mines in New Mexico's Known Potash Leasing Area ("Potash Area"). Intrepid has already invested hundreds of millions of dollars in its New Mexico facilities and is proposing to invest another $200 million over the next few years. The Potash Area contains our nation's most valuable potash reserves and is the only designated area for potash development in the country. Because of the importance of potash to our nation's agriculture industry as a key fertilizer component, the Potash Area is the subject of a Secretarial Order administering resource development. See 1986 Secretarial Order: Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico, 51 Fed. Reg. 39,425 (Oct. 28, 1986), corrected 52 Fed. Reg. 32,171 (Aug. 26, 1987) ("1986 Order").

1. Safety Risks and Potash Waste from Oil and Gas Drilling in the Potash Area

The genesis of the 1986 Order, and its predecessor Orders, is a long-running dispute between the potash industry and the oil and gas industry over resource development in the Potash Area. The reason for the conflict between the two industries is fairly simple. Because of the material risk of gas migration from an oil and gas well bore into an underground potash mine (and the resulting risk of explosion), potash producers must leave a safety buffer of unmined material around an oil and gas well. Sandia National Laboratories, at the direction of the BLM New Mexico State Office, recently completed its study of these risks and concluded: (1) there is a legitimate and material risk of gas migration from an oil and gas well into a nearby underground potash mine; and (2) to reduce the chance of potentially lethal gas migration, unmined safety buffers of as much as ¼ mile in radius should be left around an oil and gas well. See Attachment A.

The consequence to the federal government from leaving this unmined safety pillar around an oil and gas well is enormous. In a typical location in the Potash Area, the resulting safety pillar

would leave unmined approximately 1 million tons of potash. When the potash is left unmined, the federal government obviously does not receive the royalty on the potash and our nation's famers are deprived of this essential component of plant fertilizer. We calculate the lost royalty to the federal government to be approximately $13 million per oil and gas well based on today's potash prices. Also sacrificed for a single oil and gas well are the substantial number of jobs required to mine and process these 1 million tons of potash. The map submitted herewith as Attachment B shows the more than approximately 3,000 oil and gas wells that have already been drilled in the Potash Area (each red circle is an oil and gas well and related safety pillar). As you can see, our nation's potash resources have been substantially compromised already and new APDs are being filed each week.

Yet, there is a simple, win-win solution to this issue that allows the federal government to receive the royalty stream from both resources and brings both of these resources to market. The potash resource is found at depths of 1,000 – 2,000 feet below the surface. The oil and gas reserves are found at substantially deeper depths of 6,000 feet or more below the surface. Consequently, the potash can mined without impacting the oil and gas reserves. Once the potash is fully mined, the untouched oil and gas reserves can be recovered. Sequencing resource development in this manner eliminates the potential safety risk of migrating gas and allows both resources to be fully developed.

The 1986 Order attempts to provide guidelines for the BLM to administer resource development in the Potash Area so as to keep underground potash miners safe and maximize the recovery of both resources. Its application has, unfortunately, been uneven and, to our mind, inconsistent with both the intent of the Order and its plain language. The 1986 Order needs to be revised and updated to achieve its purpose. I do not write to you today, however, to address issues with the 1986 Order. There is a more pressing and immediate reason for my letter. (b) (5)

2. The Interim Processing Guidelines Instruction Memorandum

In December 2006, the New Mexico State Office of the BLM issued Instructic
No. NM-2007-011, the subject of which is "Interim Processing Guidelines, Oi
Applications for Permit to Drill (APDs) within the 'Secretary's Designated Po
Area), Carlsbad Field Office," (the "Instruction Memorandum"). See Attachn
Instruction Memorandum states that it "provides guidance concerning the proc
the Potash Area, prior to completion of the 'potash enclave standards' review,
by the Interior Board of Land Appeals in IBLA 2003-334, et al. (IMC Kalium Carlsbad, Inc., et al.)." We understand that the Instruction Memorandum was re-issued on March 13, 2009.
(b) (5)

The reference to IMC Kalium Carlsbad, Inc., et al. is to an IBLA proceedin
by the BLM of certain APDs filed by oil and gas producers in the Potash Ai
Decision"). The matter involved the appeal from an ALJ decision issued or
lengthy hearing. *In the Matter of Yates Petroleum Corp., et al.* IBLA 92-61
In its decision, the IBLA ordered the BLM to update its standards for identi
potash reserves (also known as "measured ore") and its resource map pred
Instruction Memorandum provides guidance on how to process APDs wh

standard is being evaluated. Unfortunately, it has several significant flaws and erroneous assumptions.

a. Threshold Concerns with the Instruction Memorandum

On a threshold level, the greatest concern with the Instruction Memorandum is that it is written from the perspective of allowing as much oil and gas drilling as possible in the Potash Area. This 500,000 acre area is the *Potash* Area, not the Oil and Gas Area for a reason. It is the only substantial potash reserve in the entire United States. American farmers import 85% of the potash they use from foreign nations. Protecting an American-based supply of this essential fertilizer component is critical for food independence. Consequently, the Instruction Memorandum, if faithful to the 1986 Order, should have been drafted in terms of how to best protect potash from waste through oil and gas drilling "prior to the completion of the 'potash enclave standards' review." Instead, the orientation of the memorandum is backwards – its intent is to maximize oil and gas development in the Potash Area. We respectfully submit that this Instruction Memorandum is the product of the last administration's priorities and should be reexamined.

b. The Instruction Memorandum Wrongly Equates Lack of Potash Data with No Potash

Even if the Instruction Memorandum remains in place, we believe that it should be revised to at least not accelerate the waste of our nation's only potash reserve. Our greatest concern is that the Instruction Memorandum, in the first Action bullet titled "Areas Lacking Potash Data" and in the third Action bullet titled "Areas with Low Density of Core Holes," states that if the BLM does not have any or at least sufficient core hole data to conclude that an area has commercially mineable potash reserves, it will allow oil and gas drilling in the area. Consequently, it appears that BLM assumes that if there is insufficient data to show commercially mineable potash reserves, there must be no potash there (or why else allow drilling and expose miners to safety risks and waste the potash). This is assumption, however, is contradicted by the BLM's classification of such areas as "Indicated Potash Reserves" or "Inferred Potash Reserves." If the potash reserves are at least "indicated" or "inferred" in these areas then why allow drilling? It would seem that the more responsible approach would be to not allow drilling until BLM definitively determines that the areas do not contain commercial potash reserves. This would avoid exposing underground miners to safety risks and would avoid waste of the potash based solely on a lack of data. Given the value of the potash, and the royalty thereon, these potash reserves have an "indicated" or "inferred" value of hundreds of millions of dollars.

Part of the problem here is the BLM's historic methodology for determining the location of commercial potash reserves. Presently, the BLM relies on a narrow and antiquated methodology for mapping potash reserves known as the Van Sickle standard for the USGS geologist, Donald M. Van Sickle, who created the standard 35 years ago in 1974. Under the data sufficiency element of this standard, there must be at least three data points no more than 1.5 miles apart that each meet the potash grade and thickness standards to classify the region defined by these data points as measured ore subject to heightened protection from drilling by the BLM. BLM has concluded that only core samples and mine face data may be used for the needed three data

points. BLM refuses to consider the wealth of other data available such as the geophysical log data – now commonplace in the oil and gas industry.

Putting aside our concerns over BLM's use of the Van Sickle standard as the sole method for determining commercial potash reserves, we know with certainly that BLM's assumption that "Areas Lacking Potash Data" or "Areas with a Low Density of Core Holes" are suitable for oil and gas drilling (*i.e.*, must not have commercial potash reserves that would be wasted by such drilling) is incorrect.

c. Intrepid has Already Demonstrated that BLM's Potash Resource Map is Incorrect and Allows Oil and Gas Drilling in Locations that Expose Miners to Safety Risk and Waste Potash

One of Intrepid's critical areas of focus in the Potash Area is the area east of its East Mine. This area encompasses some 12,000 acres of land stretching several miles from Intrepid's current mining operations at the East Mine eastward to the boundary of Intrepid's Life of Mine Reserves. The area is depicted generally on the map enclosed with this letter as Attachment D. For purposes of this letter, we will refer to this area as the "East Potash Area."

In 2005, Intrepid began analyzing the geophysical log and core hole data in the East Potash Area to develop a new potash mining area accessible from its East Mine. On June 9, 2006, we provided to BLM a potash ore reserve analysis of areas in the East Potash Area based on geophysical log and core hole data. The analysis included the raw data, ore maps, technical work, independent professional reports and supporting research papers. The data and analysis established the presence of large and valuable potash deposits in multiple ore zones exceeding BLM's minimum thickness and grade criteria for potash enclave. Specifically, the data confirmed that this area contained a world-class langbeinite deposit in the 3rd ore zone that extends westward toward and beneath the East Mine. Langbeinite is an extremely rare form of potash which is commercially mined no place in the world except in the Potash Area.

In May 2006, Intrepid learned of applications for permits to drill ("APDs") 11 wells in Section 17 of T. 21 S., R. 32 E., Lea County, New Mexico ("Section 17"). Intrepid objected that, based on its analysis of the available geophysical log data, core hole data, and mine face data, the area had substantial potash and langbeinite reserves and allowing such drilling would waste the potash, deprive the federal government of the royalties which would have been collected, as well as eliminate jobs and indirect economic benefits from developing those resources. That same year, Intrepid also offered to pay the cost for BLM to drill a core hole in Section 17 to conclusively establish the presence of commercial potash reserves to the BLM's satisfaction.

The BLM's New Mexico State Office refused to consider Intrepid's objections because BLM did not show commercially mineable potash in this area on its maps based on application of the Van Sickle standard.

Upon learning in 2006 that the BLM had approved the APDs in Section 17 and would not reevaluate its position on whether Section 17 had measured ore and was, thus, not an appropriate location to approve APDs, Intrepid wrote to BLM urging it to stay the effectiveness of its approval. Intrepid also renewed its offer to pay the cost for BLM to drill a core hole in the area

to obtain the core sample data needed by BLM to make an evaluation according to the Van Sickle standard.

Recognizing that (1) Section 17 and the surrounding area contained world-class potash reserves; and (2) BLM would neither recognize the geophysical log data showing this nor obtain core sample data to confirm this, Intrepid took it upon itself to conduct its own core drilling program in the area at a cost of more than $1 million.

On September 12, 2006, Intrepid applied for an exploration license to drill a core hole in Section 17. Intrepid sought to drill this core hole to confirm what was already evident from our prior geophysical log analyses and to persuade BLM to protect the potash enclaves that exist there from drilling.

On April 11, 2008, BLM issued an exploration license to Intrepid authorizing core drilling in Section 17. Intrepid immediately drilled the IP-013 core hole in Section 17, and we provided the results to BLM in June of 2008. The IP-013 data confirmed the existence of the same world class langbeinite deposit in the 3rd ore zone that was identified by our prior analyses of the geophysical log data from these lands.

On January 7, 2009, BLM issued a second exploration license to Intrepid authorizing its extensive core drilling program in the East Potash Area. On February 18, 2009, Intrepid provided to BLM the assays of three core holes drilled pursuant to this program as well as one other core hole drilled on an existing Intrepid lease – IP-032, IP-033, IP-034 and IP-035. Those assays show significant langbeinite in the 3rd ore zone meeting BLM's minimum thickness and grade criteria for measured ore. All but one of these core holes showed potash meeting those criteria in additional ore zones as well. In April and May of 2009, Intrepid drilled the IP-048 and IP-047 core holes in this area and the assay results of the 3rd ore zone were similar to the previously drilled core holes, i.e., a demonstration of significant mineable langbeinite reserves.

All of the core holes that Intrepid has drilled to date in the East Potash Area were logged using a complete suite of modern logging tools, and Intrepid has had each potash zone assayed with X-ray diffraction analysis. We have provided all of this data to BLM as it has become available. We have enclosed with this letter a disk with all of this same data.

Intrepid's core drilling in the East Potash Area has generated sufficient core hole data to meet the Van Sickle criteria in much of that area. Specifically, using the data from the IP-013, IP-35, IP-047, IP-048, PM-16-1 and PCA-135 core holes, large portions of Sections 17, 18, 19 and 20 can be designated as containing measured ore in the 3rd and 10th ore zones, as depicted on Attachment E to this letter.

More importantly and, frankly, most frustratingly, the core drilling results discussed above verify Intrepid's prior analyses of the relevant geophysical log data in Section 17, which data has consistently demonstrated these facts since 2006. The results show that no additional core data was necessary at the time of the 2006 BLM approval of the APDs in Section 17. Our prior analyses of the geophysical log data in Section 17 already adequately identified these deposits.

In response to the data we submitted to the BLM, we recently received a letter from the BLM in which it states that it has reviewed Intrepid's data and "at face value, using the Van Sickle

criteria, the ore found in the Third Ore Zone represents measured ore." See Attachment F. We await BLM's review of all of the data we have provided and its revision of its resource maps to show "measured ore" in the locations defined by our core drilling.[1]

d. The Instruction Memorandum Should be Revised to Allow Potash Operators to Develop Data for BLM's Review that Would Prevent Exposure of Miners to Safety Risk and Prevent the Waste of Potash

As this example shows: (1) it is wrong to assume that an area with no or insufficient core hole data is an area lacking commercial potash reserves where oil and gas drilling should be allowed; and (2) if given the right and sufficient opportunity, Intrepid will obtain additional core hole data at its own expense to demonstrate commercial potash reserves.

Consequently, we urge BLM to, at a minimum, revise the Instruction Memorandum to provide that for "Areas Lacking Potash Data" or "Areas with a Low Density of Core Holes," BLM do the following:

- Provide written notice to all potash operators in the Potash Area of BLM's receipt of any notice of staking or application(s) for permit to drill an oil and gas well in a location that BLM classifies as an "Area Lacking Potash Data" or an "Area with a Low Density of Core Holes."

- Allow the potash operator to elect within 30 days of receiving such written notice to apply for and receive a potash exploration license for some portion or all of the relevant area (or file and receive approval of an exploration plan if the proposed well is on its potash lease acreage).

- After BLM approves the exploration license or lease exploration plan, provide the potash operator with at least 120 days to drill a sufficient number of core hole(s) in the relevant area to obtain data that satisfies the operative standard (Van Sickle or other) for determining measured ore.

- If the results from the core hole(s) demonstrate that the area contains measured ore in one or more zones, the application(s) for permit to drill shall be denied.

- If no potash operator applies for an exploration license or files an exploration plan within 30 days after receiving written notice of a notice of staking or application(s) for permit to drill, the authorized officer may approve such proposed location subject to the 1986 Order.

[1] This is but one example of the threat of oil and gas drilling in locations with world-class potash reserves. We know through our evaluation of existing core hole data and geophysical log data that world-class potash deposits in the Livingston Ridge/Lost Tank, Cabin Lake, Bilbrey, Hat Mesa, Quahada Ridge, Nash Draw, Sand Dunes, Ingles Wells, Los Medanos, and Mes Verde fields in the Potash Area have been wasted through extensive oil and gas drilling.

Revising the Instruction Memorandum in this manner will enable the BLM to preserve our nation's scarce potash resources at the potash operator's expense.[2] With this information developed by the potash operator, BLM, as the owner of the resource, can make fully informed decision about its development. Obviously, Intrepid would prefer that the BLM undertake its own core drilling in the Potash Area to identify all locations of measured ore for protection from oil and gas drilling. After all, this is the federal government's resource. However, Intrepid recognizes that BLM has previously rejected these requests.

e. The Definition of "Mine Out Areas" in the Instruction Memorandum is Incomplete

The fourth bullet in the Action section of the Instruction Memorandum discusses so-called "Mined Out Areas." These areas are defined as locations where "no reasonable access exists to mine these areas by mechanical mining techniques." Intrepid's objections to this policy are twofold. First, by limiting access to mine the ore to "mechanical mining techniques," BLM has excluded solution mining techniques. The solution mining method involves injecting a salinated brine into a mine in which mechanical mining has been completed and then pumping out the potash-enriched brine for above-ground processing. With respect to potash mines with certain characteristics, this method allows for recovery of ore that cannot otherwise be recovered by mechanical mining techniques and prolongs the life of the mine. It is a common mining technique used throughout the United States and across the world. Intrepid operates a tremendously successful solution mine in Moab, Utah. Mechanical mining of Intrepid's Moab mine ceased in 1969. The mine has been solution mined since that time and there are 123 additional years of potash reserves to be recovered through this technique. Even more to the point, Intrepid is in the process of obtaining BLM approval for a solution mine in the Potash Area with respect to Intrepid's HB mine. Intrepid estimates that there are 28 years of mineable reserves remaining in the HB mine that can be recovered through solution mining.

Consequently, the limitation in the "Mined Out Areas" description to only "mechanical mining techniques" is misplaced. A "Mined Out Area" should be redefined to refer to a mine where no more potash can be recovered using *both* mechanical mining and solution mining techniques.

The "Mined Out Areas" discussion in the Instruction Memorandum also neglects to consider any inter-connections between mines. Allowing oil and gas drilling in a mine that has been mined out using both mechanical mining and solution mining techniques but that has open underground connections with an active mine would present an unacceptable safety risk. No mine that is interconnected to another mine can be considered "mined out" until both mines are "mined out" using both mechanical mining and solution mining techniques. Intrepid urges BLM to revise the Instruction Memorandum accordingly to avoid such a substantial safety risk.

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[2] Revising the Instruction Memorandum in this manner would not contravene the Energy Policy Act of 2005 which, while it does prescribe deadlines for approvals of APDs, does also provide that BLM must comply with "other applicable laws" in approving any APD. 30 U.S.C. § 226(p). The 1986 Order is an "other applicable law" that obligates BLM to protect underground miner safety and to prevent the waste of potash, objectives that could be compromised by hasty approval of an APD in certain locations within the Potash Area.

f. The Instruction Memorandum Should be Revised to Clarify that "Concurrent Operations" Does not Mean Same Time Same Place

As the ALJ in the IMC Kalium case found, the use of the term "concurrent operations" in the 1986 Order's statement of purpose does not, contrary to the arguments made by the oil and gas industry, place the oil and gas and potash industries on "equal footing regarding development of their leaseholds." ALJ Order, at 52-57. In particular, the ALJ concluded that "[t]o the extent the 1986 Order defines the relative status of the two industries, the relevant language is not found in the statement of purpose, but in the declaration of policy added in 1975 that the Department will 'deny approval of most applications for permits to drill oil and gas tests from surface locations within the potash enclaves * * * .'" ALJ Order, at 56. **Based on this conclusion, the ALJ ruled that the term "concurrent" does not mean "same time, same place," but, instead, "same time, different place."** ALJ Order, at 57. The IBLA noted that the ALJ properly "rejected claims that there is an absolute equality between potash and oil and gas activities in the Potash Area and that the first to develop a resource has preferential rights over other under the [1986] Order" and otherwise left this finding undisturbed. IBLA Decision, at 170 IBLA 30.

It would be invaluable for the BLM to clarify in the Instruction Memorandum this operating principle. In applying the 1986 Order to APDs, the New Mexico Field Office should be mindful that the 1986 Order reflects a decided preference for protection of potash over development of oil and gas reserves in the Potash Area and that it should be 'deny[ing] approval of most applications for permits to drill oil and gas tests from surface locations within the potash enclaves." This all bears repeating as the Instruction Memorandum, as presently drafted, reflects, if anything, a preference for oil and gas drilling over protection of potash in the Potash Area. Under your leadership, the BLM has this opportunity to avoid the mistakes of the past administration and place the protection of potash in the Potash Area as the agency's priority.

We most appreciate your attention to these matters. Should you need any additional information and or want to meet to discuss these matters, please let me know. I look forward to working with you and your team on these issues of mutual importance.

Very truly yours,

Robert P. Jornayvaz III

Robert P. Jornayvaz III
Chief Executive Officer

Enclosures
cc: Ned Farquhar, Deputy Assistant Secretary for Land and Minerals Management (w/ encl.)

EXHIBIT A

Brian Ehgartner
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Sandia National Laboratories

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Operated for the U.S. Department of Energy by
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Linda Rundell
New Mexico State Director
US Bureau of Land Management
PO Box 27115
Santa Fe, NM 87502

Date: August 31, 2009

SAND Report for Potash Gas Migration Project

Dear Ms. Rundell,

Enclosed is our draft SAND report on the analyses performed for the Potash Gas Migration Project. The report has been through our internal review process and we have incorporated review comments from BLM and our external reviewer. It is now ready for stakeholder review. Some of the results were shared with the stakeholders in our meetings with them. We sincerely appreciate their contributions to the analysis, and involvement in the analysis.

The issue that motivated this study was the potential for gas migration into the potash mines. The analyses predict well failure up to ¾ mile from the edge of a potash mine. Hydrofracture and hydrologic modeling were not performed. Until more specific studies are performed a conservative position in regards to safety has been chosen resulting in safe stand-off distance for mining near producing oil and gas wells. These distances greatly reduce the chance for a well to be compromised which in turn ensures the safety of underground miners.

A complete gas migration study will require additional time and resources and should include:

1. A hydrofracture and hydrologic analysis/model. The two flow systems (hydrofracture and natural flow) as they relate to high pressure gas escaping from a well bore (hydrofracture) or oil escaped into a formation (natural flow) are discussed as part of the analysis plan. The analysis results in this report show that the overburden and encompassing marker beds above and far beyond the mine boundaries are disturbed due to fracture and excessive deformation and slippage. Thus a disturbed flow system exists, that would facilitate gas migration beyond the natural state. We are not modeling an undisturbed formation but one that has undergone severe deformation due to mining thus weakening the strength of the formation. Therefore, we maintain our position (until further studies confirm or disprove our position) that a loss of well integrity could potentially jeopardize the safety of the mines. Our position is, as discussed in the analysis plan (Appendix I- see Position on Gas Migration), a compromise to well integrity can result in gas pressure high enough to either fracture the formation or permit flow into the mine through the natural flow system.

2. A lot of discussion with the BLM and stakeholders has centered on what to do next. At our stakeholder meetings and in prepared responses to their comments on our analysis plan, we proposed a number of things that stakeholders could do, including integrity testing some of the existing oil and gas wells that have experienced significant mine deformations or will shortly; and also logging these wells and possibly potash core wells to measure slippage along the interfaces. The stakeholders want to see a field test conducted on a new test well or two, similar to what was done for Trona. In addition, there are more analyses that could be performed. See additional discussion in Appendix 2.

3. This report does not specifically address the safety of mining near plugged and abandoned wells. That could be the focus of a future study because of the existence of 2800 wells in the potash area. Of concern is the possibility that a well may be compromised prior to P&A resulting in gas leakage which could be encountered during subsequent mining. Gas can exist as a separate phase or in solution with brine or oil when under pressure, but can abruptly come out of phase upon entry into or near the mine as the face advances. Gas monitoring requirement exists, but they should be re-examined in light of this study. In particular, this study could be used to identify wells that may have lost integrity due to mining. The various mining and geologic scenarios considered in this report could help identify particularly hazardous wells and assist in developing mining strategies prior to mining near them. Monitoring requirements should also consider the P&A procedure used. Abandoned wells could also re-pressurize with time and the well may leak after it is mined around. These scenarios call for continued monitoring and additional study.

4. An alternative well design was also proposed. The concept well is designed for slippage, allowing the salt string to fail, but maintaining fluid filled annuli between it and the production string. The annuli could be monitored and kept at low pressure utilizing either an open casing at the surface or pressure release diaphragms. Novel design concepts could be further explored and specific designs could result that rely on world wide expertise and experience.

We would be pleased to further discuss these options or any other comments or questions you may have on the report. We have enjoyed interacting with the stakeholders on your behalf and would consider them essential to defining the path forward.

On behalf of the analysis team, thanks for your support.

Sincerely,

Brian Ehgartner

Copy to (by e-mail):
Sandia National Laboratories
Greg Elbring 6314
David Borns 6312
James Redmond 1525
Lupe Arguello 1525
Mike Stone 1525
Jim Bean 1524

EXHIBIT B

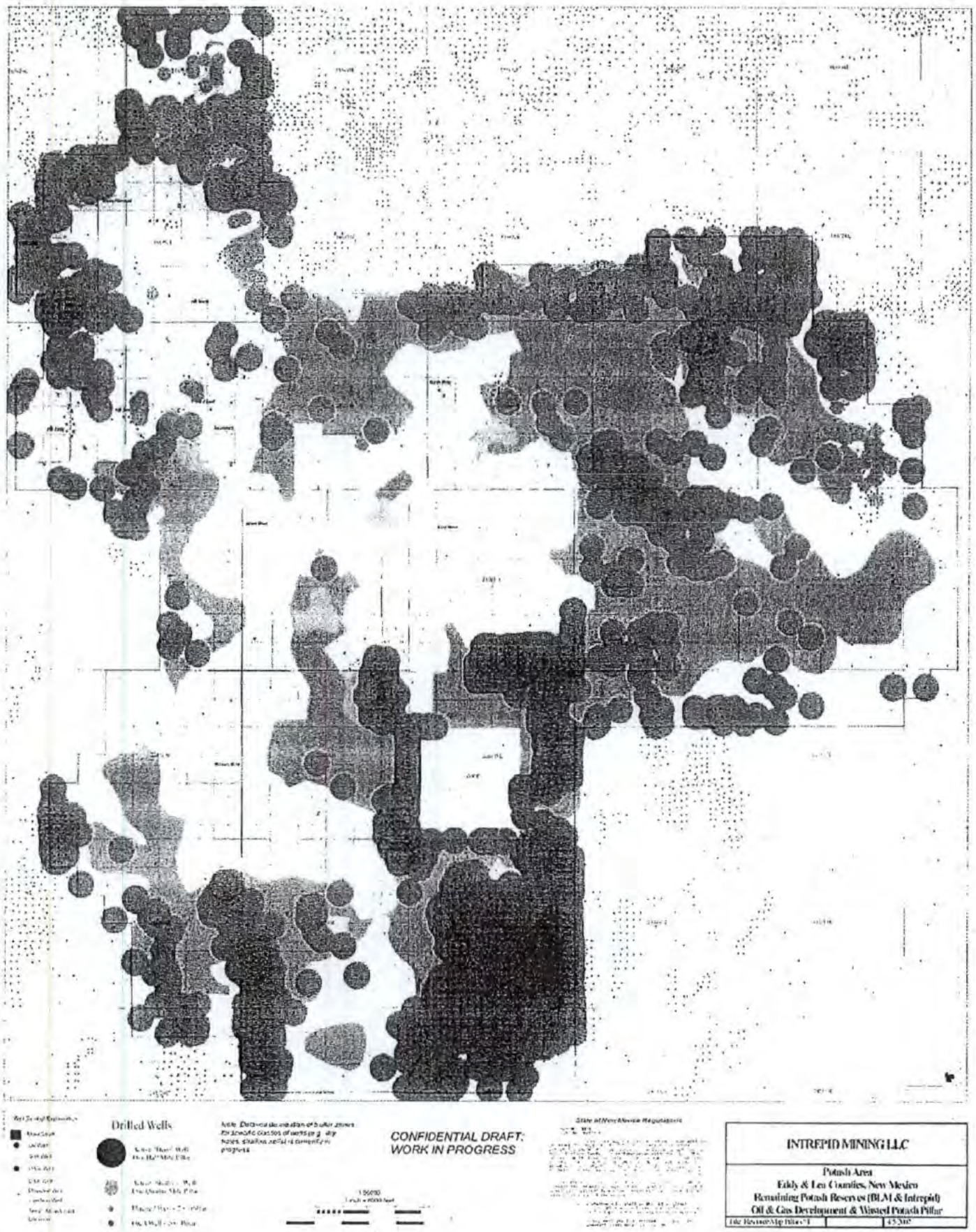
Drilled Wells
CONFIDENTIAL DRAFT:
WORK IN PROGRESS
State of New Mexico Regulations
INTREPID MINING LLC
Potash Area
Eddy & Lea Counties, New Mexico
Remaining Potash Reserves (BLM & Intrepid)
Oil & Gas Development & Wasted Potash Pillar

EXHIBIT C

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
New Mexico State Office
1474 Rodeo Road
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TAKE PRIDE IN AMERICA

In Reply Refer To:
3160 (92200) I
3530

EMS Transmission- 12/19/2006
Instruction Memorandum No. NM-2007- 011
Expires: 09/30/2008

To: Pecos District Manager, Carlsbad Field Manager

From: State Director

Subject: Interim Processing Guidelines, Oil and Gas Applications for Permit to Drill (APDs) within the "Secretary's Designated Potash Area," (Potash Area), Carlsbad Field Office

Program Area: Onshore Oil and Gas Operations, 43 CFR 3160

Purpose: This directive provides guidance concerning the processing of APDs in the Potash Area, prior to the completion of the "potash enclave standards" review, which was ordered by the Interior Board of Land Appeals in IBLA 2003-334, et al. (IMC Kalium Carlsbad, Inc., et al.)

Action: The Potash Area contains significant portions where the potash enclave boundary will not change no matter what revisions may result from the re-evaluation of the potash enclave standards. APDs which have been or will be submitted in these areas may be processed prior to the completion of the enclave standards review. These areas are:

- Areas Lacking Potash Data - The current enclave was projected ½ mile beyond the last data point which meets or exceeds the current potash thickness and quality standards. In the areas beyond this ½ mile zone, lowering or not changing the enclave standards would have no effect on the enclave boundary, and raising the standards would contract the enclave boundary. Therefore, you may process APDs in areas beyond the ½ mile zone, where no data points exist, in accordance with the current procedures.

- Area between the Known Potash Leasing Area and the Secretary's Designated Potash Area – The majority of this area is classified as barren of potash due to the lack of data points, or data points which are either barren of potash or which indicate sub-economic potash. You may process APDs in this area as long as they are in an area which will not change whether the potash standards are raised or lowered.

  When you receive an APD located within this area, you must first review available core

hole data to confirm whether or not the core encountered only barren zones, or sub economic potash. If no core data exists or no potash was encountered in a core, you may process the APD. If sub economic potash was encountered, you must defer the APD until after the enclave standards review is completed.

- Areas with a Low Density of Core Holes – The areas currently classified as "Indicated Potash Reserves," or "Inferred Potash Resources" are delineated as such due to the low density of data points. Changing the potash standard will not alter the Indicated or Inferred designations, since not enough data exists to define enclave, no matter what revisions may be made to the potash standard. Therefore, you may process APDs in Indicated and Inferred areas where the enclave boundary was not determined using one data point in "Measured Potash Reserves" and one data point located in either Indicated or Inferred areas.

- Mined Out Areas – Areas exist where the potash enclave has been mined right up to the limits of ore. Even though the 1993 enclave map shows small quantities of enclave beyond the mine workings, no reasonable access exists to mine these areas by mechanical mining techniques. Therefore, you may process APDs in these areas as though no enclave exists, while considering potential safety hazards due to subsidence resulting from past mining operations.

- Barren Areas Defined by Core Holes – There are limited barren areas defined by core holes which are completely barren of potash mineralization in all relevant ore zones. These areas may be on the exterior of the enclave or they may be completely surrounded by enclave. The enclave boundary with these barren areas may shift if the potash standards are revised, but it can never extend beyond the barren core holes. Therefore, you may process APDs in areas which will remain barren regardless of a change in the potash standards.

- Areas in Residuum - Areas exist on the western side of the Potash Area where salt dissolution has occurred completely through all of the potash ore zones, leaving insoluble residuum in place. The enclave boundary between these "residuum core holes" and ore-quality core holes may shift if the potash standards change, but it can never extend beyond the residuum core holes. Therefore, you may process APDs in the areas which are non-mineralized due to dissolution of the salts through the ore zones, which will not change regardless of a change in the potash standards.

- Drilling Islands - The 1986 Secretarial Potash Order allows for the establishment of drilling islands in certain areas within the potash enclave to allow oil and gas drilling while minimizing impacts to measured potash reserves. The decision to establish a drill island "wastes" a minimum amount of potash ore to allow oil and gas drilling, and this decision would not change, whether the potash standards are raised or lowered. Thus, appropriately sited drill islands can continue to be established within the potash enclave, and you may continue to process APDs in existing drill islands, during the period the potash standards are being re-evaluated.

- Infield Drilling in Barren Areas - There are several areas where oil and gas wells have been drilled in barren areas on approximately 40 acre spacing, immediately adjacent to the potash enclave. No matter if the potash standards are raised or lowered, these areas will remain impacted by the existing wells. Drilling more wells within these fields will not create further impacts to potash resources. Therefore, you may process APDs which constitute infield drilling in these barren areas.

- Interior High-Grade Areas - Interior portions of the enclave, where ore is present with a quality well above the present standards, should not change with a reasonably foreseeable revision to the cut-off standards.

IBLA stated that, although ore being mined today is inherently, "mineable under existing technology and economics," it does not necessarily follow that recent mining also establishes economic cut-off grades or identifies the outer limits of a potash enclave. This is true because the average ore grade is a mixture of higher and lower grade ores, and indicates that the true economic cut-off grade must be lower than that of ore being mined today. Thus, the economic cut-off grade should not be higher than the average ore grade currently being mined. Therefore, any enclave established by an ore grade above the current mined average should remain enclave, and you must process APDs in these areas for denial.

Areas Which Could Be Affected By A Change In The Cut-Off Criteria

Certain portions of the Secretary's Potash Area could be affected by a change in the cut-off standard. In these areas, APD processing will be deferred until after establishment of new potash standards.

- Areas with Core Holes Currently Containing Marginal or Sub-economic Ore - There are portions of the Secretary's Potash Area within the enclave or close to the enclave boundary where core holes contain mineralization just above or just below the current cut-off standard, that meet the other measured ore reserve criteria of thickness and core-hole spacing. In these areas a change in the standard would have an effect on the location of the enclave boundary. Processing APDs submitted near these areas will be deferred until after the cut-off standard is determined.

- Areas Between Core Holes Containing Economic Ore and Barren Core Holes - Areas classified as barren which contain one or more core holes which are barren of mineralization and are located within a reasonable distance of other core holes where geologic inference is acceptable, will most likely have a change in the enclave boundary. Processing APDs submitted in areas where the enclave could change if the cut-off standard is raised or lowered will be deferred until the cut-off standard is re-evaluated.

Conclusion

You may process APDs, either for approval or denial, in areas which conclusively will not be affected by raising or lowering the economic cut-off standard for potash. For those areas that might change, processing APDs will be deferred until after the cut-off standard is re-evaluated. In either instance, you should make specific case-by-case, fact based determinations to process or defer a particular APD. Final decisions will be made for any APD processed according to the requirements of the Secretary's 1986 Order and the guidance of the IBLA decision.

Timeframe: This interim guidance shall be followed until the review of the potash enclave standard is completed.

Background: Please refer to the attached issue paper.

Contact: Vincent Vogt, Solid Minerals Team Leader, at (505) 438-7455 or Jay Spielman, Geologist, at (505) 438-7503.

Signed by:

Linda S.C. Rundell

1 Attachment:
1 – Interim Operating Guidelines for Processing APDs in the Potash Area Prior to the Economic Evaluation for Potash Cut-Off Grades (8 pp)

Interim Operating Guidelines
For
Processing APDs in the Potash Area
Prior to the Economic Evaluation for Potash Cut-Off Grades

Overview

Various oil and gas operators appealed the BLM's decisions to deny their Applications for Permit to Drill (APDs) during the period between 1992 and 1995. These APDs were denied because they 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. Several of these appeals were consolidated under one case (IBLA 92-612). The case was scheduled for hearing by the Office of Hearings and Appeals. Administrative Law Judge (ALJ) Patricia McDonald heard the case between August 15, 1996 and March 27, 1997. The record addressed was massive and complex. The submission of over 1200 exhibits, 68,000 pages of documents and the testimony of 37 witnesses resulted in a transcript of 15,275 pages. The review of the voluminous record took a great deal of time to review and decide. ALJ McDonald issued her decision July 7, 2003. Judge McDonalds decision was appealed by the three interested parties in 2003 as cases IBLA 2003-334, 335, 336 & 341.

The Interior Board of Land Appeals (IBLA) issued a decision in IBLA 2003-334, 335 336, & 341 on September 7, 2006 regarding the appeals of 72 denied APDs. In this decision IBLA stated; "the identification of potash enclaves is central to BLM's proper administration of the Potash Area under the Secretarial Order". IBLA found "that BLM failed to consider existing technology and economics based upon the best data currently available in periodically identifying and revising potash enclaves under and as required by the Secretarial Order". IBLA remanded most of the 72 denied APDs because the record failed to establish that they were located in properly identified potash enclaves.

The potash cut-off standard established by Van Sickle in 1974 was inherent in the establishment of the potash enclave. That standard defined the economic cut-offs for conventionally mined potash ores as: 4 feet at 10% K_2O Sylvite, 4 feet at 4% K_2O Langbeinite, or a mixed ore equivalent of sylvite and langbeinite. Since that standard had not been revisited since 1974, IBLA found BLM had not considered existing technology and economics in establishing the potash enclave. Thus, IBLA remanded the APDs for further consideration of the potash enclave prior to BLM making new decisions.

Mineral Lands Classification Board Determination of Cut-off

In 2005 BLM convened a Mineral Lands Classification Board to determine if the potash enclave cut-off grade should be changed as directed by ALJ Patricia McDonald's 2003 decision in IBLA 92-612. Judge McDonalds stated, "the record does not support a conclusion that the standards of four (4) feet of 10 percent K_2O as sylvite and four (4) feet of 4 percent K_2O) as langbeinite, or a combination of the two, as defined by Van

Sickle in 1974 continues to identify the thickness and quality of potash which is mineable under existing technology and economics" as required by the Secretarial Order of 1986.

The board made their determination based on the assumption that the best way to determine the parameters or standards that constituted ore is to examine the actual mining that is occurring. The board examined numerous mining areas where development mining occurred to the "economic limit" of the ore body. The board found that for Sylvite, development mining was discontinued when the ore grade was close to or below 10% K_2O Sylvite. Since very little Langbeinite ore has been mined at the economic cut-off, a simple ratio was used to determine the cut-off grade for Langbeinite. (Assuming mining costs, milling costs and sales value are similar to sylvite) This analysis yields a cut-off grade for Langbeinite of 4% K_2O.

The Mineral Land Classification Board was convened during the time IBLA was reviewing ALJ McDonald's decision in IBLA 92-612.

IBLAs Response and the Mineral Lands Classification Board

The IBLA concluded an analysis of the type used by the Board, was inadequate in determining the lowest grades that are mineable under existing technology and economics. IBLA stated in 2003-334 et al.: "Since potash mining is not a charitable undertaking, it logically follows that potash ore grades currently being mined are 'mineable under existing technology and economics'. It does not, however, necessarily follow that recent mining also establishes applicable economic cut-off grades. (i.e. grades below which it is no longer economic to mine potash) or identifies the outer limits of a potash enclave (i.e. minimum grades of potash ore that are mineable under existing technology and economics.)"

"For example, if 15% sylvite were mined, such could support a finding that > 15% sylvite is mineable but sheds little light on whether 10% is also mineable (but yet to be mined). Such mining would neither confirm nor rebut the continuing validity of the Van Sickle Standard (i.e. 4 feet of 10% Sylvite) for identifying potash enclaves under the Secretarial Order." (170 IBLA 40)

The Problem

The process of re-evaluating the potash enclave is complicated and time consuming. The entire process could take upwards of one year for completion. In the meantime, appealed APDs are being remanded and new APDs will continue to be submitted. Delaying the processing of APDs places a burden on the oil and gas companies and prevents BLM from meeting the deadlines established in the Energy Policy Act.

To avoid holding up all APDs until the potash enclave is re-evaluated, we recommend processing all APDs that we determine are not located in an area which could be affected

by a foreseeable change in the enclave standard. Three possible outcomes exist for an evaluation of the enclave standard:

1. The standard will remain the same and the enclave will not change.
2. The standard will be raised and the enclave will contract.
3. The standard will be lowered and the enclave will expand.

Below is a brief discussion of the affects each outcome will have on the enclave.

The Standard Remains the Same

If the economic standard remains the same as it is today, there will be no change in the boundary of the enclave. Retaining the existing standard is supported by the conclusions reached by the Mineral Lands Classification Board in 2005. The Board examined the average grades being mined today and the grades at which mining was discontinued. The Board determined the grade at which mining was discontinued (cut-off grade), is very close to or below that of the current standard. IBLA ruled that the type of evaluation used by the Board was inconclusive as to the lower limit of the cut-off grade, however, upper limit of the cut-off will be no higher than what is being mined today, but could be lower. That is, the potash ore grades currently being mined are 'mineable under existing technology and economics. It does not, however, necessarily follow that recent mining also establishes applicable economic cut-off grades. That is, the grade at which mining becomes uneconomic.

The Standard is Raised

Raising the cut-off standard will have the net affect of contracting the area of measured ore (enclave) in the Secretary's Potash Area.

Raising the standard is one of the three possible outcomes of an evaluation of the cut-off standard. However, the level to which the cut-off standard can be raised is limited by IBLAs determination that what is being mined today is mineable or economic. The average ore grade for Sylvite mining at the Mosaic mine for the last 6 months averaged 11.61% K_2O as Sylvite. It is logical to conclude that the cut-off grade for Sylvite will not be raised to level higher than that what is currently being mined or 11.61% K_2O as Sylvite.

The Standard Is Lowered

Lowering the cut-off grade will have the affect of expanding the enclave

An economic study is required to determine the cut-off grade, there is no definitive information available at this time to estimate the lower limit economical for mining (cut-off grade).

The Process and Solution

The potash enclave (Measured Ore) as depicted on the "Preliminary Map Showing Distribution of Potash Resource, Carlsbad Mining District, Eddy & Lea Counties, New Mexico" last published in 1993, was drawn with the following three criteria:

1. Measured ore will be delineated by data points more than 1½ miles apart if geologic inference shows these projections to be reasonable.

2. Measured ore will not be delineated by less than 3 data points that meet all other distance and thickness and grade criteria.

3. Measured ore 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.

Areas Not Affected By A Change In The Cut-Off Criteria

The current potash enclave has significant areas where the enclave boundary will not change whether there is an increase or decrease in the economic cut-off grade for potash.

Areas Lacking Data

A significant portion of the enclave boundary is defined by a lack of data points rather than by existing points which are subeconomic. That is, there are no data points extending beyond where the enclave boundary is currently drawn. The enclave was projected ½ mile beyond the last known data point which meets thickness and quality standards. The boundary in these areas will remain the same whether the standard is lowered or stays the same. Only if the standard is raised is there a possibility the boundary will change. The condition necessary for this to occur is when last known data point within the enclave contains ore quality between the current cut-off and where the cut-off would be if it were raised. In this case the area surrounding the core hole would not be classified as measure ore.

Since, leaving the standard the same or lowering it will have no affect on the enclave boundary and raising the standard could only contract the enclave, if we process APDs as if the standard didn't change, then there is no irreparable harm to the potash resource. We conclude that APDs in these areas can be processed as if the standard remained the same, according to the 1986 Secretary's Potash Order and the conditions set forth in the IBLAs decision.

Area Between The KPLA And The Secretary's Potash Area Boundaries

Large portions of the Secretary's Potash Area are located between the KPLA boundary and the Secretary's Potash Area Boundaries. The majority of this area is classified as barren of potash because the area either the lacks data points, the

data points are barren o potash or the data points contain sub-economic values of potash. In this area APDs can be processed as long as they are in an area which will not change whether the cut-off grade is raised or lowered, and according to the 1986 Secretary's Potash Order and the conditions set forth in the IBLAs decision.

Areas with a low Density of Core Holes

The ore reserves in the potash area are divided into three categories: Measured, Indicated, and Inferred. Measured is defined as ore where the "quantity is computed from dimensions revealed in outcrops, trenches, workings, or dill holes; grade and (or) quality are computed from the results of detailed sampling. The sites for inspection, sampling, and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth, and mineral content of the resource are well established." In the potash area, Measured ore reserves will be delineated by data points no more than 1½ miles apart if geologic inference shows these projections to be reasonable, and Measured ore will not be delineated by less than 3 data points that meet all other distance and thickness and grade criteria.

If an area doesn't meet Measured ore criteria the next lower category is Indicated ore reserves. Indicated reserves are areas where the quantity and grade and (or) quality are computed from information similar to that used for Measured resources, but the sites for inspection, sampling, and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for Measured resources, is high enough to assume continuity between points of observation. Spacing of data points does not meet Measured ore criteria; yet data points show mineralization higher than minimum thickness and quality.

Areas where some information is available, but not to the degree of Indicated ore reserves, are termed Inferred. Inferred ore reserves are estimates that are based on an assumed continuity beyond Measured and (or) Indicated resources, for which there is geologic evidence. Inferred resources may or may not be supported by samples or measurements.

The areas currently classified as Indicated or Inferred ore in the potash area are delineated as such due to the low density of data points. In these areas, raising or lowering the cut-off standard will not have an impact the designation of either Indicated or Inferred.

APDs can be processed for the areas in Indicated and Inferred ore where the enclave boundary was not calculated utilizing one data point in Measured ore reserves and one data point located in Indicated or Inferred ore. Processing will be done according to the 1986 Secretary's Potash Order and the conditions set forth in the IBLAs decision.

Mined Out Areas

Areas exist where the potash enclave has been mined right up to the limits of ore. That is, no ore exists beyond what has already been mined, even though the 1993 map shows ore remaining. In these mined out areas there may or may not be data points on either side of the enclave boundary. Even if small quantities or ore remains beyond the mine workings, there may not be any reasonable access for further mechanical underground mining. In these areas it doesn't matter whether the standard is raised or lowered, no further mechanical mining is possible. For these areas, we conclude that APDs can be processed as if no ore is present, while considering safety hazards created by subsidence resulting from past mining operations.

Barren Areas Defined By Core Holes

There are limited areas where a barren area is defined by core holes which are completely barren of mineralization in every relevant ore zone. These areas may be on the exterior of the potash enclave or they may be completely surrounded by enclave. The enclave boundary present between these barren core holes and ones that have mineralization may shift as the cut-off standard changes, but it can never extend beyond the barren core holes. APDs can continue to be processed in the areas which will remain barren regardless of a change in the cut-off standard.

Areas In Residuum

On the western side of the potash enclave there are areas where dissolution of the Salado Salt has occurred. The flow of under-saturated ground water moving in the formations at the top of the salt has dissolved the salt away, in places, completely through the all of the potash ore zones leaving the insoluble residuum in place. The enclave boundary present between these core holes with all ore zones in residuum and ones that have mineralization in ore quality may shift as the cut-off standard changes, but it can never extend beyond the residuum core holes. APDs can be processed in the areas which will remain non-mineralized due to dissolution of the salts through the ore zones, regardless of a change in the cut-off standard.

Drilling Islands

Areas within the potash enclave where BLM has previously established drilling islands as pursuant to the 1986 Secretarial Order can remain open for further applications. Drilling islands, by definition, are within the potash enclave and were established in areas that minimize the loss of potash ore. Their size is determined by existing conditions or set to a minimum size and not in relation to the potash enclave boundary. Raising or lowering the cut-off standard may have an affect on the enclave boundary. However, since most drill islands are well

within the enclave and established in particular locations for reasons other than the enclave boundary. Changing the enclave boundary will not have an affect on the drill islands size or location.

Since drill islands are established within the potash area in areas which minimize the impacts to measured potash reserves, the establishment of appropriately sited drill islands would be the same whether the cut-off standard is raised or lowered. Thus, nothing should prohibit BLM from continuing to establish appropriately sited drill islands within the enclave or processing APDs in existing drill islands, during the period the enclave cut-off standard is being re-evaluated.

Infield Drilling in Barren Areas

There are several areas where oil and gas wells have been drilled in barren areas on approximately 40 acre spacing and are immediately adjacent to the potash enclave as presently drawn. If the cut-off standard is raised or lowered, these areas will remain impacted by the existing wells. Drilling more wells within these fields will not create further impacts to potash resources. APDs which constitute infield drilling can continue to be processed.

Interior High Grade Areas

Areas in the interior portion of the enclave, where ore is present with a quality well above the present cut-off, will not change whether the standard is raised or lowered.

IBLA determined that what is being mined today is mineable, but not necessarily the lowest grades that can be mined economically. This implies that after the economic study of the cut-off grade is completed, the upper limit of the cut-off grade will be no higher than that of ore being mined today. The average ore grade for Sylvite mining at the Mosaic mine for the last 6 months averaged 11.61% K_2O as Sylvite. Considering the IBLA determination, the cut-off grade for Sylvite will not be raised to an amount higher than 11.61% K_2O for Sylvite. Thus, any enclave established with a grade above 11.61 % will remain enclave and APDs in these areas can be processed according to the 1986 Secretary's Potash Order, with the additional conditions required by the IBLA in the referenced decision.

Areas Which Could Be Affected By A Change In The Cut-Off Criteria

There are areas within the Secretary's Potash Area which could be affected by a change in the cut-off standard. In these areas, the approval or denial of the APDs will be deferred until after establishment of a new cut-off standard.

Areas with Core Holes Currently Containing Marginal or Sub-economic Ore.

There are areas in the Secretary's Potash Area, within the enclave or close to the enclave boundary where core holes contain mineralization just above or below the current cut-off standard and meeting all other measured ore reserve criteria. In these areas a change in the standard would have an affect on the location of the enclave boundary. As described above, any areas of the enclave defined by core holes containing ore above 11.61% K_2O as Sylvite, would remain enclave. Areas below this grade may change. Processing APDs submitted near these areas will be deferred until after the cut-off standard is determined.

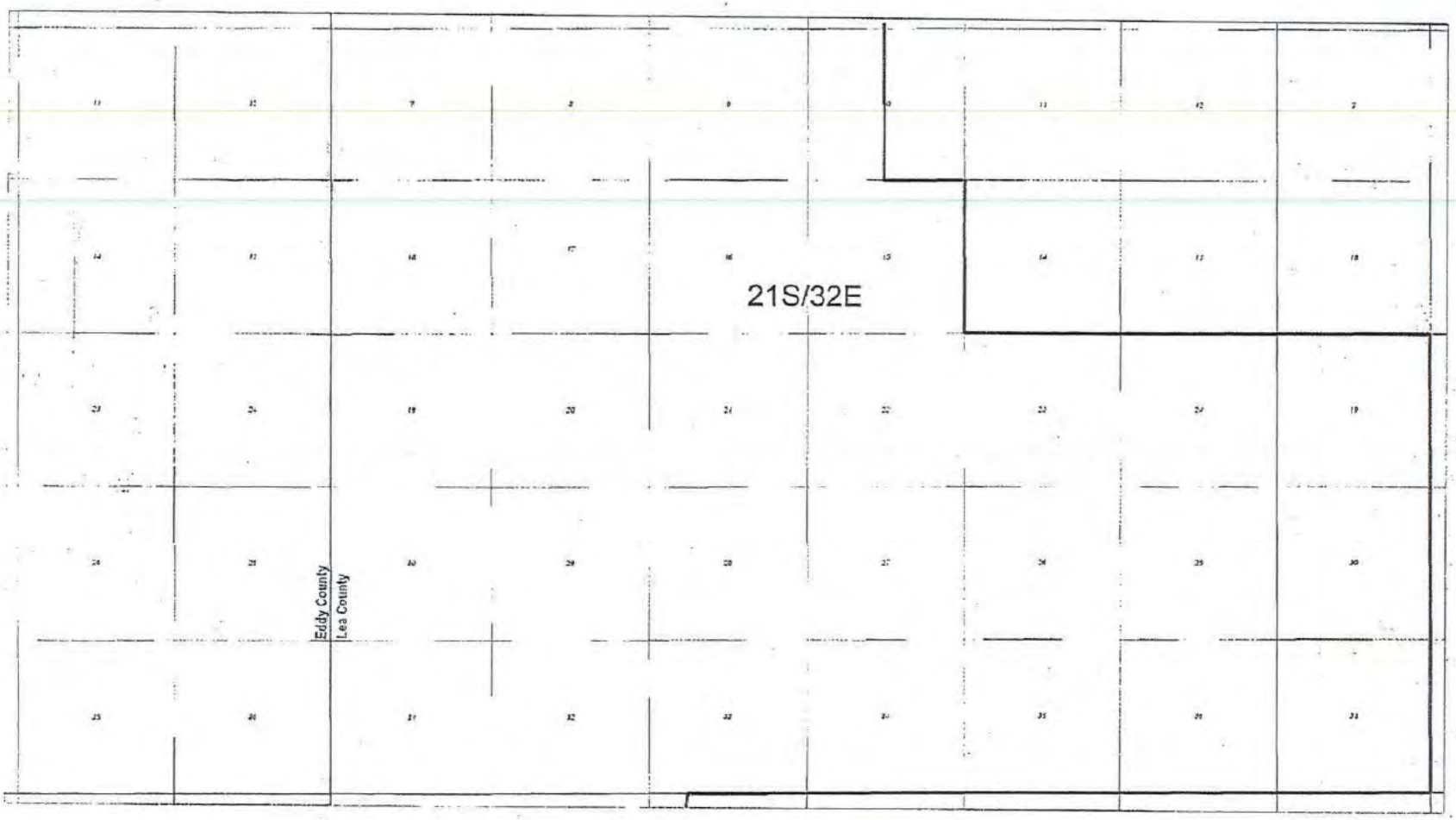
Areas Between Core Holes Containing Economic Ore and Barren Core Holes

Areas classified as barren which contain one or more core holes which are barren of mineralization and located within a reasonable distance of other core holes where geologic inference is acceptable, will most likely have a change in the enclave boundary. Processing APDs submitted in areas where the enclave could change if the cut-off standard is raised or lowered will be deferred until the cut-off standard is re-evaluated.

Conclusion

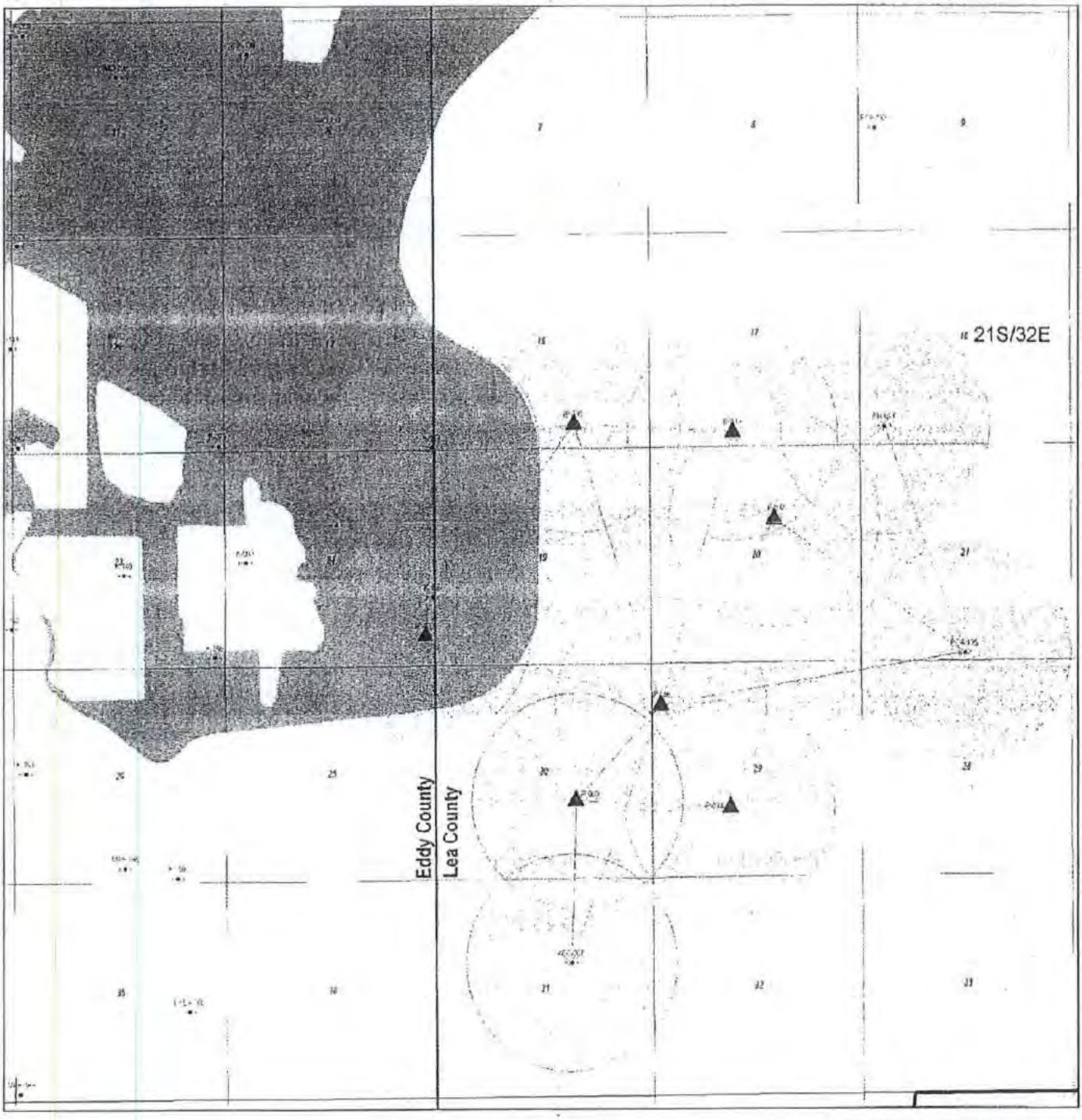
We conclude that APDs can continue to be processed, either for approval or denial, in areas which conclusively will not be affected by raising or lowering the cut-off standard for potash. For those areas that might change, processing APDs will be deferred until after the cut-off standard is re-evaluated. In either instance, specific case-by-case, fact based determination will be made to process or defer a particular APD. Final decisions will be made for any APD processed according to the requirements of the Secretary's 1986 Order and the guidance of the IBLA decision.

EXHIBIT D



Intrepid Mining, LLC

EXHIBIT E



Intrepid Core Holes(recently drilled)

Existing BLM Enclave

Newly Established Enclave per BLM Van Dorn Area (New Area to Turn Blue)

1:16000
1 inch = 1500 feet

INTREPID MINING LLC

EXHIBIT F

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Pecos District
Carlsbad Field Office
620 E. Greene
Carlsbad, New Mexico 88220-6292
www.blm.gov/nm/st/en.html

TAKE PRIDE IN AMERICA

In Reply Refer To:
3500 (P0220)

JUN 15 2009

Robert P. Jornayvaz, III
Chief Executive Officer
Intrepid Potash, Inc.
707 17th Street, Suite 4200
Denver, CO 80202

Dear Mr. Jornayvaz:

The Bureau of Land Management (BLM) has received Jim Lewis's letter dated May 12, 2009 transmitting the results of Intrepid's recent exploration activities in T21S, R32E. The information has been reviewed and at face value, using the Van Sickle criteria, the ore found in the Third Ore Zone represents measured ore. In the past, Jim Lewis has requested that the BLM re-evaluate the enclave boundary in this area to reflect the new data as it comes in. The problem with BLM re-evaluating the enclave is complying with the Interior Board of Land Appeals' (IBLA) September 29, 2008 affirmation of its IMC Kalium, 170 IBLA 25 (2006) mandate for BLM to update the cut-off grade within the Secretary's Potash Area.

The cut-off grade and enclave mapping study was contracted through Sandia National Laboratories (SNL). Until the SNL study is complete, BLM does not have a cut-off standard recognized by IBLA with which to compare the new data. Comparing the data to the Van Sickle Standard could lead to further litigation or put the BLM in contempt of court. This is not the direction BLM wants to go.

At this time, BLM can't update the potash enclave until a new cut-off grade is determined. However, to protect the rights of both the oil and gas lessees and the potash producers, BLM will defer making decisions on all future Applications for Permit to Drill (APDs) which fall within areas that reasonably could become measured ore. As new data points are established, they will be added to our data set. If the new data points contain ore that reasonably could become measured ore, these areas will be added to the lands where APDs will be deferred until the cut-off standard is revised.

Deferring decisions on APDs located in these areas complies with the conditions set forth in the Interim Operating Guidelines established by BLM on December 19, 2006 and reissued on March 13, 2009 for lease operations prior to the completion of the cut-off study.

We have enjoyed working with Intrepid on issues that affect potash mining and hope to continue working closely on all important issues. Please contact this office, 575-234-5972, if you have questions concerning this matter.

Sincerely,

James Stovall
Field Manager

Bureau of Land Management
New Mexico, Oklahoma, Kansas, Texas

ISSUE PAPER January 4, 2010

FROM: Linda Rundell, State Director, BLM New Mexico

PHONE: (505) 438-7501

SUBJECT: **Oil and Gas, and Potash Conflicts**

I. SUMMARY

(b) (5)

II. DISCUSSION

(b) (5)

NATIONAL SYSTEM OF PUBLIC LANDS

(b) (5)

III. MESSAGE

(b) (5)

PREPARED BY: Tony Herrell, Deputy State Director - Minerals
PHONE: (505) 954-2134

NATIONAL SYSTEM OF PUBLIC LANDS

(b) (5)

NATIONAL SYSTEM OF PUBLIC LANDS

Land and Minerals Management Correspondence Tracking System

Control No: 4568 Correspondence Date: Receive Date: 12/22/2009 Due Date 1/4/2009

	First Name	Last name		
From-->			Agency:	BLM
To-->	AS/LM			

ES Number: Audit Number: SigLevel: AS

Subject: FEDERAL REGISTER NOTICE OF INTENT TO PREPARE AN EIS FOR THE PROPOSED HB POTASH, LLC - "IN-SITU" SOLUTION MINE PROJECT, EDDY COUNTY, NEW MEXICO (LLNMP02000 L71220000.EX0000 LVTFGX9G4200)

Signature: SGD BY NED FARQUHAR 12/24; H/C'D BY FAITH 12/24

Comments:

Reviewers

Names 1:	Aird, Brenda	12/23/2009	3:	Farquhar, Ned	12/24/2009
Dates 2:	Mussenden, Paul	12/23/2009	4:		

Browse | Add | Delete | Save | Search | Due | Rec | Reviewer Report | SigLevel | Names | Quit

Audit | Status

Form 1220-1
(April 1994)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CLEARANCE SHEET

~ Manual Release
~ Instruction Memorandum
~ Information Bulletin
Regulation
Other - Memorandum

Instructions to Originating Office

Attach to copies of documents being submitted for clearance. List all reviewing officials by office code and office title.
For Bureauwide Directives, list (550) – Directives and Information Services both before and after signing official.

Brief Description of Issuance (*include Subject-Function Number and Heading*

Notice of Intent to prepare an Environmental Impact Statement for the Proposed HB Potash, LLC -- "In-Situ" Solution Mine Project, Eddy County, New Mexico

SIGN ALL DOCUMENTS IN BLACK OR BLUE INK

ROUTING (Begin with Originator)			NON-CONCURRENCE ≅	
TO	SURNAME OR INITIAL	DATE		
210 – Dave Wallace	See e-mail			
630 – Faith Bremner	F. B.	11/10/09		
DOI Solicitor ~~Amy Sosin~~ Karen Hawbecker	K. Hawbecker	11-23-09		subject to changes
Public Affairs	J a k	11/24/09		
AD 200	[illegible]	11/25/09		
AD 600	[illegible]	11/30/09		
BLM Director	R. S	12/22/09		12/8/09 Janet - Ready for review Briefing?
AS/LM	[illegible]	12/24/09		
Exec. Sec.				12/9/09

Please call Faith Bremner at 912-7441 for pick-up.

4310-OX

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Ned Farmer 12/24/09

[LLNMP02000 L71220000.EX0000 LVTFGX9G4200]

Notice of Intent to prepare an Environmental Impact Statement for the Proposed HB Potash, LLC – "In-Situ" Solution Mine Project, Eddy County, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, (NEPA) and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Carlsbad Field Office, Carlsbad, New Mexico, intends to prepare an Environmental Impact Statement (EIS) and by this notice is announcing the beginning of the scoping process to solicit public comments and to identify issues.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through the local media, including newspapers and the BLM Web site at: http://www.blm.gov/nm/st/en/fo/Carlsbad_Field_Office.html. In order to be included in the Draft EIS, all comments must be received prior to the close of the scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the HB Potash, LLC – "In-Situ" Solution Mine Project by any of the following methods:

- E-mail: Rebecca_Hunt@blm.gov
- Fax: (575) 885-9264
- Mail: Bureau of Land Management, Carlsbad Field Office, Attention: Rebecca Hunt, 620 E. Greene St., Carlsbad, NM 88220.

Documents pertinent to this proposal may be examined at the Carlsbad Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Rebecca Hunt, Planning and Environmental Coordinator, telephone (575) 234-5995; address, Carlsbad Field Office, Attention: Rebecca Hunt, 620 E. Greene St., Carlsbad, NM 88220; e-mail Rebecca_Hunt@blm.gov. (b) (5)

(b) (5)

SUPPLEMENTARY INFORMATION:

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Jesse Juen

Acting State Director

AUTHORITY: 40 CFR §1501.7

4310-OX

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP02000 L71220000.EX0000 LVTFGX9G4200]

Notice of Intent to prepare an Environmental Impact Statement for the Proposed HB Potash, LLC – "In-Situ" Solution Mine Project, Eddy County, New Mexico

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Jesse Juen

F.B.
11/10/09

Jesse Juen

Acting State Director

AUTHORITY: 40 CFR §1501.7

Briefing Paper

1. State Office

New Mexico

2. What is the title of this notice?

(b) (5)

3. What are the key issues raised by the underlying decision documents for this notice?

(b) (5)

Anticipated key issues are:

(b) (5) Water Quality & Quantity

(b) (5) Subsidence

(b) (5)

Health & Safety

(b) (5)

(b) (5)

4. Who are the primary users affected by or parties interested in the underlying decisions or actions? What are their concerns?

(b) (5)

5. Is tribal consultation appropriate under E.O. 13175?

(b) (5)

6. Will this notice be controversial?

(b) (5)

7. What will the underlying decision or action change?

(b) (5)

8. Will this notice need Communications Materials, e.g., a press release, Communications Plan? If so, enclose these materials with the notice package submitted.

(b) (5)

(b) (5)

9. What are the reasons for the timing of the notice and the consequence, if any, of delaying or canceling the release?

(b) (5)

10. How has this been analyzed under the National Environmental Policy Act (NEPA)?

(b) (5)

11. Is there any additional pertinent, descriptive information that reviewers need to know or would increase understanding?

(b) (5)

(b) (5)

12. List the names and positions of the people who have prepared, reviewed, and approved the notice and the underlying decisions and documents.

Carlsbad Field Office
(b) (5)

Pecos District Office
(b) (5)

New Mexico State Office
(b) (5)

Solicitor's Office
(b) (5)

Washington Office 210
(b) (5)

Communication Plan
Carlsbad Field Office, Bureau of Land Management
Environmental Impact Statement for the HB Potash, LLC
"In-Situ" Solution Mine Project in Eddy County, New Mexico

Issue

(b) (5)

Background

(b) (5)

(b) (5)

Communication Goals

(b) (5)

Key Audience/Interested Parties

(b) (5)

(b) (5)

Key Messages

(b) (5)

Key Issues

Water Quality & Quantity

(b) (5)

Subsidence

(b) (5)

Health & Safety

(b) (5)

Other
(b) (5)

Public Affairs Action Plan

Outreach Methodology
(b) (5)

-
-
-
-
-
-

Communication Products
(b) (5)

(b) (5)

BLM NEWS RELEASE

US DEPARTMENT OF THE INTERIOR ■ BUREAU OF LAND MANAGEMENT
NEW MEXICO STATE OFFICE ■1474 RODEO RD ■ SANTA FE, NM 87505
Hans Stuart■ External Affairs Chief ■ 505.438.7510

For Immediate Release

For Additional Information
Becky Hunt 575/234-5995
Donna Hummel 505/954-2019

BLM Seeks Public Input on Proposed HB Potash In-Situ Solution Mining Project

-Agency to Develop Environmental Impact Statement for Project-

Carlsbad – The Bureau of Land Management has initiated a public scoping process to help identify issues involved with a proposal to construct and operate an in-situ solution mining project by HB Potash in Eddy County, New Mexico. A formal announcement opening the 30-day public comment period and initiating the preparation of an environmental impact statement (EIS) for the proposed project was published in the Federal Register on _____.

HB Potash, LLC, (a subsidiary of Intrepid Potash, Inc.) is proposing to construct and operate an in-situ solution mining project that would involve the injection of saline water into previously mined, existing potash mine workings and extraction of a mineral-rich solution by pumping soluble deposits back to the surface. The solution would be piped to a solar evaporation pond system where the potassium-bearing salts would be precipitated. The salts would be harvested from the ponds and routed to a flotation plant for ore refinement. The proposed project area, including a flood zone of 4,330 acres of open mine workings, encompasses about 38,453 acres (60.08 square miles) of mostly federal land.

BLM initially began to prepare an environmental assessment (EA) for this project. During the public comment period and two public scoping meetings, held in September 2008, a high level of public interest in the project, as well as information about the project's potential impacts, were received. For this reason, BLM determined that an EIS would be required to analyze the potential environmental impacts of the proposed project. Other alternatives in addition to the proposed action, including a no action alternative, will be evaluated in the EIS in accordance with the National Environmental Policy Act. The BLM Carlsbad Field Office will serve as the lead agency for preparing the EIS.

-more-

Written comments on issues related to the HB Potash, LLC – "In-Situ" Solution Mine Project can be submitted by any of the following methods:

- Email: Rebecca_Hunt@blm.gov
- Fax: 575-885-9264
- Mail: Bureau of Land Management, Carlsbad Field Office, Attention: Rebecca Hunt, 620 E. Greene St., Carlsbad, NM 88220.

For additional details about the proposed project, please visit:
http://www.blm.gov/nm/st/en/fo/Carlsbad_Field_Office.html

-BLM-

Rebecca Hunt/CFO/NM/BLM/DOI
11/09/2009 12:46 PM

To Faith M Bremner/WO/BLM/DOI@BLM
cc
bcc
Subject Re: We received your Federal Register Notice, have a question

Faith,

Our concerns about providing the info in the FR notice is the uncertainty of the data:
(b) (5)

Thanks,

Becky Hunt
Planning & Environmental Coordinator
Carlsbad Field Office
Bureau of Land Management
620 E. Greene St.
Carlsbad, NM 88220
575-234-5995 Office
575-885-9264 Fax
Rebecca_Hunt@nm.blm.gov
Faith M Bremner/WO/BLM/DOI

Faith M Bremner/WO/BLM/DOI
11/09/2009 10:23 AM

To Rebecca Hunt/CFO/NM/BLM/DOI@BLM
cc
Subject Re: We received your Federal Register Notice, have a question

(b) (5)

' We need to give the public all the information that's available.

Faith Bremner
Regulatory Affairs Division
Bureau of Land Management
1620 L Street NW, Suite 401
Washington DC 20036
(202) 912-7441 (Phone)
(202) 653-5287 (Fax)

David Wallace/WO/BLM/DOI
11/10/2009 01:35 PM

To Faith M Bremner/WO/BLM/DOI@BLM
cc Benjamin Martin/WO/BLM/DOI@BLM, John A Lewis/WO/BLM/DOI@BLM, Michael Tupper/WO/BLM/DOI@BLM, Sandra
bcc
Subject Re: Notice of Intent to prepare an EIS for the Proposed HB Potash, LLC "In-Situ" Solution Mine Project, Eddy County, New Mexico

faith, Elizabeth A. Meyer is now the New Mexico liaison. Attached is the WO-210 approved copy, with track changes:

HB Potash_NOI FRN 11.9.09 edits.docx

David Wallace
U.S.D.I. Bureau of Land Management
Division of Decision Support,
Planning and NEPA (WO 210)
1620 L Street NW #850
Washington, D.C. 20036
202-912-7276
Faith M Bremner/WO/BLM/DOI

Faith M
Bremner/WO/BLM/DOI
11/09/2009 02:21 PM

To David Wallace/WO/BLM/DOI@BLM, John A Lewis/WO/BLM/DOI@BLM, Sandra Meyers/WO/BLM/DOI@BLM, Michael Tupper/WO/BLM/DOI@BLM, Benjamin Martin/WO/BLM/DOI@BLM
cc
Subject Notice of Intent to prepare an EIS for the Proposed HB Potash, LLC "In-Situ" Solution Mine Project, Eddy County, New Mexico

Dear Dave and John:

Please review this Notice of Intent and let me know when it's ready to send to the Solicitor's Office for their review.(b) (5)

(b) (5)

Thanks

Faith Bremner
Regulatory Affairs Division
Bureau of Land Management

Briefing Paper

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New Mexico

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Water Quality & Quantity

(b) (5)

Subsidence

(b) (5)

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12. List the names and positions of the people who have prepared, reviewed, and approved the notice and the underlying decisions and documents.

(b) (5) Carlsbad Field Office

(b) (5) Roswell District Office

(b) (5) New Mexico State Office

(b) (5) Solicitor's Office

(b) (5) Washington Office 210

Communication Plan
Carlsbad Field Office, Bureau of Land Management
Environmental Impact Statement for the HB Potash, LLC
"In-Situ" Solution Mine Project in Eddy County, New Mexico

Issue

(b) (5)

Background

b) (5)

(b) (5)

Communication Goals

(b) (5)

Key Audience/Interested Parties

(b) (5)

(b) (5)

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 600-1293

To: Ed Roberson AD-200

From: Faith Bremner 630

Through:

Subject: Notice of Intent to prepare an Environmental Impact Statement for the Proposed HB Potash, LLC -- "In-Situ" Solution Mine Project, Eddy County, New Mexico

Date Received: 11/24/2009

Date of Letter:

WO#: WO-600

Comments:

Action	Person	Date
Received by	WO-100	12/1/2009
Delivered to	WO-100	12/1/2009
Surnamed by	Celia Boddington	11/30/2009
Sent to	WO-600	11/27/2009
Surnamed by	Bud Cribley	11/25/2009
Sent to	Bud Cribley	11/25/2009
Received by	Jeannette Irving	11/24/2009
Hand-delivered to	WO-200	11/24/2009

12/8/09
12/22/09
(1) Surnamed
(2) handed by WO-100 to AS, LM

Note: Correspondence that has no actions associated with it, will not appear in this report

Tuesday, December 01, 2009 shblack

Land and Minerals Management Correspondence Tracking System

Control No:	3574	Correspondence Date:	1/13/2009	Receive Date:	1/16/2009

Due Date: 2/25/2009

	First Name	Last name		
From-->	BOGLE, MARY LYNN	HAAS, JAMES E.	Agency:	
To-->	DIRK	KEMPTHORNE		

ES Number: ESO00000047 Audit Number: SigLevel: DR

Subject: SURNAME PACKAGE - OIL AND GAS/POTASH MATTERS; CONCERNED ABOUT THE SANDIA GRAS MIGRATION STUDY

Signature: S/N'D BY R. CARDINALE 3/10; CALLED BLM FOR P/U 3/10; H/C'D BY BELVA 3/10

Comments: PLEASE EXPEDITE!!

Reviewers

Names	1:	Aird, Brenda	3/6/2009	3:	Cardinale, Richard	3/10/2009
Dates	2:	O'neil, Eufrona	3/9/2009	4:		

Browse | Add | Delete | Save | Search | Due | Rec | Reviewer Report | SigLevel | Names | Quit

Audit | Status

See surnames on earlier version

Name
Date 3/10/04
Name
Date
Name
Date
Name
Date
Name
Date

In Reply Refer To
1330 (NM922000)

Ms. Mary Lynn Bogle
Hinkle, Hensley, Shanor & Martin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Dear Ms. Bogle:

(b) (5)

(b) (5)

If you have any questions concerning this matter, please call Bill Auby, Project Coordinator, at 505-438-7423.

Sincerely,

Mike Pool
Acting Director

cc: Mr. James M. Hudson
Hinkle, Hensley, Shanor & Karin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Mr. James E. Haas
Losee, Carson & Haas, P.A.
207 S. Fourth Street
Artesia, New Mexico 88211

bc: SIO:MIB:
ES:MIB:7229
LM:MIB:6628
SOL:MIB:7456
OCL:MIB:6248
OE-IA:MIB:6218
PMB:MIB:6109
LLM:WO6200:LS:401
LLM:[State Office and code]
BIA:MIB:4141
FWS:MIB:3012
FPS:MIB:

LLM:WO6200:LS:401:DLyons:2/25/09:ES0000047:2051528

Name
Date 2-26-09
Name
Date 2-26-09
Name
Date 2-26-09
Name
Date 2-26-09
Name
Date 2/27/09

In Reply Refer To
1330 (NM922000)

Ms. Mary Lynn Bogle
Hinkle, Hensley, Shanor & Martin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Dear Ms. Bogle:

(b) (5)

(b) (5)

If you have any questions concerning this matter, please call Bill Auby, Project Coordinator, at 505-438-7423.

Sincerely,

Ron Wenker
Acting Director

Mike Poole

cc: Mr. James M. Hudson
Hinkle, Hensley, Shanor & Karin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Mr. James E. Haas
Losee, Carson & Haas, P.A.
207 S. Fourth Street
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BIA:MIB:4141
FWS:MIB:3012
FPS:MIB:

LLM:WO6200:LS:401:DLyons:2/25/09:ES0000047:2051528

Name BBM
Date 2/26/09
Name _____
Date _____
Name _____
Date _____
Name _____
Date _____
Name _____
Date _____

In Reply Refer To
1330 (NM922000)

Ms. Mary Lynn Bogle
Hinkle, Hensley, Shanor & Martin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Dear Ms. Bogle:

(b) (5)

(b) (5)

If you have any questions concerning this matter, please call Bill Auby, Project Coordinator, at 505-438-7423.

Sincerely,

Ron Wenker
Acting Director

cc: Mr. James M. Hudson
Hinkle, Hensley, Shanor & Karin, L.L.P.
P.O. Box 10
Roswell, New Mexico 88202

Mr. James E. Haas
Losee, Carson & Haas, P.A.
207 S. Fourth Street
Artesia, New Mexico 88211

bc: SIO:MIB:
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OE-IA:MIB:6218
PMB:MIB:6109
LLM:WO6200:LS:401
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BIA:MIB:4141
FWS:MIB:3012
FPS:MIB:

LLM:WO6200:LS:401:DLyons:2/25/09:ES0000047:2051528

HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.
ATTORNEYS AT LAW
400 PENN PLAZA, SUITE 700
PO BOX 10
ROSWELL, NEW MEXICO 88202
575-622-6510 (FAX) 575-623-9332
hinklelawfirm.com

WRITER:
Mary Lynn Bogle
mbogle@hinklelawfirm.com

January 13, 2009

The Honorable Dirk Kempthorne
Secretary of Interior
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Re: Oil & Gas/Potash Matters
Sandia National Laboratories Gas Migration Study Meeting

Dear Secretary Kempthorne:

On behalf of, Bass Enterprises Production Company, ("Bass"), Devon Energy Production Company, L.P., ("Devon"), Occidental Petroleum Corporation, ("OXY"), and Yates Petroleum Corporation ("Yates"), we are writing to address concerns that have arisen with regard to the Sandia Gas Migration Study. The most significant concern is Sandia's failure to date to address topics specifically noted in the Statement of Work executed by Department of Interior and Sandia.

On December 9, 2008, Sandia held a meeting between the Sandia participants, BLM, and the technical representatives of the oil and gas lessees. The meeting was limited to technical people only, i.e., engineers and geologists. This was problematic in that to date many of the company representatives involved in prior discussions were managers and attorneys, who were specifically excluded from this meeting, despite repeated requests from the oil and gas stakeholders. Most of the companies sent a drilling engineer or other technical person, and Lawrence Teufel, PhD (Geology/Rock Mechanics), Greg Hazlett, PhD (Reservoir Engineering) and Mr. T. B. O'Brien, Wellbore Design Engineer, also attended for the oil and gas lessees.

Prior to the meeting Sandia provided the stakeholders with a Draft Analysis Plan for review. The oil and gas industry submitted detailed comments and information in response to the Draft Analysis Plan. Also one day prior to the meeting Sandia provided a draft agenda for discussion purposes. Because of the contents of the two documents and the tenor of the meeting on December 9, industry is greatly concerned about the scientific soundness of the study and the impartiality of the panel preparing same. Most important, the oil and gas stakeholders assert that the study does not comply with the requirements of the Statement of Work. Specifically, and discussed later in this communication, the oil and gas concerns include:

RECEIVED
2009 JAN 16 PM 1:19
OFFICE OF THE EXECUTIVE SECRETARIAT
315673

PO BOX 10
ROSWELL, NEW MEXICO 88202
(575) 622-6510
FAX (575) 623-9332

PO BOX 3580
MIDLAND, TEXAS 79702
(432) 683-4691
FAX (432) 683-6518

PO BOX 2068
SANTA FE, NEW MEXICO 87504
(505) 982-4554
FAX (505) 982-8623

1. Risk resolution is not being considered, contrary to the stated scope of the project provided in the Statement of Work.
2. The study fails to evaluate gas migration. Sandia has made the assumption, with no evidence to support it, that gas migration will occur.
3. The study fails to review and consider relevant information provided by the oil and gas industry.
4. The study focuses solely on subsidence and casing deformation versus gas migration.
5. The comments at the December 9 meeting reflected biases against the oil and gas industry, and those biases are reflected in the work done by Sandia to date. Those biases are unwarranted and interfere with valid scientific review.
6. The industry is concerned also about the timing and release of the study.

The Statement of Work provides that the project scope is to:

> "Develop a technically sound analysis of potential risks and risk resolutions associated with the concurrent development of both oil & gas and potash production within the potash enclave of southeastern New Mexico, with respect to issues of potential gas migration from well bores toward underground potash mines."

The Statement of Work also provides that the technical content of the study is to include:

> Discussion of issues and concerns related to gas migration;
> Develop issues-resolution strategy; and
> Consider mine operations and related geologic impacts with respect to gas migration.

Risk resolution is clearly not being addressed. The Sandia team leader Dr. Brian Ehgartner stated several times during the meeting that risk resolution was not their focus. When the oil and gas lessees' representatives attempted to inform Dr. Ehgartner of the resolution requirement of the Statement of Work by showing him a copy of it, Dr. Ehgartner flipped the document back to Dr. Hazlett without comment and went on to another topic of discussion.

Second, a significant industry concern is that the charge in the Statement of Work is not being followed in that the study does not address the topic of gas migration in any regard. The Sandia Draft Analysis Plan previously provided and the discussion at the December meeting focused exclusively on issues related to subsidence. The draft study assumes gas migration is certain to occur if wellbore integrity is affected. The Sandia team leader affirmatively stated that since gas migration occurs, Sandia would not study gas migration, and had run

out of time and money in any event. There is no scientific defense for this presumption of gas migration.

The oil and gas stakeholders addressed the issue of gas migration in their written comments provided prior to the December 9, 2008 meeting, and noted that the Sandia Draft Analysis Plan had ignored the important issue of whether gas will migrate from a Delaware wellbore into a mine in the designated Potash Area. The Sandia Draft Analysis Plan states that gas migration will be assumed because of incidents of fluid flow many years ago in the Vacuum Field (also known as the "Rhodes-Yates" field) fifteen miles east of the Potash Area. The drilling and operating facts associated with that incident as well as the geology of the location are significantly distinguishable from the facts and geology applicable to oil and gas operations in the Potash Area. The oil and gas stakeholder comments pointed out these distinctions to Sandia. More importantly, the Waste Isolation Pilot Plant ("WIPP") Certification, 63 F.R. 27353, 27369 (May 18, 1998) discusses the same incident (referred to therein as the "Hartman Scenario"). The WIPP Certification concludes that the drilling requirements are much more rigorous in the Potash Area than they are in the Vacuum Field, and that there are "significant differences in the geology [of the Potash Area and in the area] where the Hartman case occurred that should not be ignored."

Sandia's reliance on the Hartman Scenario as the basis for its assumption that gas migration will occur is scientifically indefensible. Sandia's approach will not constitute a gas migration study or analysis. The computer modeling information does not analyze gas migration as required by the Statement of Work, but rather focuses entirely on subsidence and possible casing deformation.

Third, the Statement of Work -Technical content section also stipulates that comments and participation from the stakeholders are to be included, and that the process was to be "open". Oil and gas representatives understand and accept that the comments do not necessarily have to be embraced but we do expect them to be reviewed and considered. On September 29, 2008, the oil and gas stakeholders provided extensive written comments to the BLM for delivery to Sandia. It was quickly apparent to the oil and gas representatives at the December meeting that some or all of the participants in the Sandia study had not received or had not reviewed the materials previously provided. This was confirmed several times by Sandia team members noting they had not seen The Phase IV – Trona Study document, which was specifically included in the materials provided by the oil and gas stakeholders. This document is an integral part of the industry comments and was repeatedly referred to during the meeting. The Phase IV document is a verified model for evaluating the impact of subsidence on wells. Actual test wells were drilled and evaluated as the mine front approached the wells. The omission of this document from the document review for this study is critical because it documents both the actual field validation study done in the Trona area of Wyoming and points out how much the

field validation study varied from the computer model. The study also demonstrated that a modification of well bore design can satisfactorily address deformation and subsidence concerns.

Different Sandia team members stated more than once that they had not seen this study. Not only were the Sandia team members unaware of the field validation study conducted in the Trona Area, they were also unaware that changes in wellbore design could be utilized to address any alleged gas migration issue in the Potash Area. Some Sandia participants also noted the need for validation, because a model is only as good as the assumptions. The information in the Trona study and a validation of the Sandia model could have a major impact on the results of the study. Assumptions inherently include biases, which can be verified or refuted with a field test as was demonstrated in the Trona Phase IV study. Key policy and process decisions should not be made based only on assumptions.

The failure to provide all of the oil and gas lessee comments to the scientists at Sandia, coupled with the failure of those who did see them to familiarize themselves with the information included in the comments, effectively eviscerates the requirements of the Statement of Work that the process be "open." There is no "openness" if the comments and materials provided by the stakeholders are not made available to the scientists, and/or if project team at Sandia does not review or read the comments and materials provided. The failure to review and consider this study borders on scientific negligence and strongly infers that the study is result oriented due to the refusal to consider data which is contrary to the panel's apparent position. When this occurs, the "open" nature of the process must be questioned.

Fourth, Sandia appears to have spent an inordinate amount of time and allocated funding on evaluating subsidence and possible impacts on wellbore casing, unrelated to gas migration. Sandia assumes that any casing deformation, no matter how slight, constitutes casing "failure." This is simply implausible. Casing is specifically designed to yield, move, and bend so that it does not fail. Provisions of the ***1986 Order*** require BLM to design wellbores to prevent infiltration of hydrocarbons into a mine. Wellbores in the Potash Area can be specifically designed to prevent the shearing of casing.

Mr. O'Brien, one of the industry consultants, is an expert in wellbore design. It is widely known throughout the oil and gas community that among Mr. O'Brien's many distinguished credentials as an expert, he was instrumental in writing standards for casing adopted by the American Petroleum Institute ("API Standards. This is important because when Dr. Ehgartner asked Mr. O'Brien if he was "familiar" with the API standards, and implied that Mr. O'Brien was not knowledgeable, it was apparent that Dr. Ehgartner was unaware of the high level of expertise the oil and gas lessees had provided for the meeting and had not reviewed the background of the experts. Mr. O'Brien had in fact recommended

the wellbore designs advanced by the oil and gas lessees as suitable resolutions for concerns associated with alleged gas migration in the Trona and Potash Areas. Mr. O'Brien's resume was included in the materials previously provided by the oil and gas stakeholders for Sandia's review. Dr. Ehgartner was dismissive, if not outright hostile, in his actions and statements on this subject to Mr. O'Brien and the other industry representatives who tried to explain the impact of the optional well and casing designs.

The casing deformation/failure and subsidence impacts suggested in the draft study are based entirely on a computer model. The oil and gas stakeholders have urged Sandia to validate the model with actual field studies, such as was done in Phase IV of the Trona study. Field validation work in Trona showed the models to be significantly inaccurate, and the result of the model was that the "safety parameters" required by the model were much greater than those borne out by the field validation. If the model is applied with no field validation, it is highly likely that significant oil and gas reserves will be wasted and never developed. We believe that a field study will demonstrate the fallacy of a number of the conceptual precepts utilized by Sandia in their model. Sandia's response to the oil and gas representatives was that they had neither the time nor enough money left to address gas migration or to validate the model with a field test. In other words "don't' bother us with facts which may be contrary to the stated position.

Fifth, the oil and gas industry representatives are concerned about potentially significant biases in the final report because of several statements made by Dr. Ehgartner, the program chair. At one point when looking at a map of the area, Dr. Ehgartner, stated that there were "enough" oil and gas wells in the Potash Area. It should be noted there are approximately 2800 wells located in the Potash Area encompassing approximately 497,000 acres. He went on to ask why the oil and gas lessees thought there should be more wells in the potash area given that the area was an important, and indeed, the only deposit of potash in the United States. Dr. Ehgartner had not informed himself of either the facts or secretarial policy requiring "concurrent development" of both resources in the Potash Area. The facts are that the Potash Area of Southeastern New Mexico does not contain the only deposit of potash in the United States. The secretarial policy of concurrent development set forth in the Order of the Secretary of Interior dated October 28, 1986, (***1986 Order,*** 51 FR 39425) was addressed extensively in the written comments provided to Sandia by the oil and gas stakeholders. Apparently Dr. Ehgartner has not read the comments provided by the oil and gas stakeholders.

Dr. Ehgartner also made several statements in response to oil and gas representatives suggestions that he "did not think the potash people would like that." This leads to concerns that the Sandia study is inherently biased in favor of the potash industry's position as opposed to being an unbiased scientific study.

The flaw in Dr. Ehgartner's approach as the Sandia team leader is threefold in that:

> (1) It ignores the Statement of Work which requires risk resolution so that the purpose of thte ***1986 Order***, namely, concurrent development of both resources, can be achieved, , and
>
> (2) It is not the job of Sandia National Labs to make or interpret Secretarial policy. That is the job of the Secretary of Interior and must be consistent with the IBLA decision in ***IMC Kalium Carlsbad, Inc.***, 170 IBLA 25 (September 7, 2006), and with the U.S. District Court decision in ***PANM v. DOI,*** No. 6:06-CV-01190 BB -ACT, (U.S.D.Ct., D.N.M., August 29, 2008).
>
> (3) It is not the job of Sandia National Labs to obtain the concurrence of the potash industry. It is the job of Sandia to conduct a scientifically valid study.

Sixth, oil and gas representatives are concerned with the time line outlined by Dr. Ehgartner. He noted that Sandia hoped to have the study concluded by the end of January 2009. The Sandia team was not even meeting with the potash representatives until mid to late January. Dr. Ehgartner also noted on several occasions that most of the funding had been spent so there were no resources to address the oil and gas stakeholders' comments, perform a field validation or a study of gas migration. These issues further raise the concern that the outcome of the study has been predetermined in favor of the potash industry's position.

For approximately eighty years, oil and gas and potash development have occurred in the Potash Area. The oil and gas stakeholders have repeatedly stated that they have no interest in drilling within a mile of active mining operations, and they have no intention of engaging in operations that conflict with mining operations. There are in excess of 2800 oil and gas wellbores in the Potash Area, and eighty-nine (89) wells are in open mine workings, (mining occurred subsequent to the drilling of the oil and gas wells). Potash geologists agree, and have affirmatively represented to MSHA that there has not been a single incidence of fluid or gas flow from an oil and gas well into a mine in the Potash Area. The 75+ year field history, supported by many studies conducted by the potash industry, the U.S.G.S., U.S. Bureau of Mines, MSHA, DOE/Sandia National Lab, and the oil and gas industry, establish that oil and gas and potash operations can safely co-exist. Without other compelling evidence to the contrary, the models and conclusions reached by the current Sandia Study should be consistent with this history.

In summary, the oil and gas stakeholders are concerned that:

- The Sandia final report will not be scientifically based as required by the Statement of Work, but be based largely on assumptions that are not scientifically supported,
- The Sandia study is not evaluating if gas migration will occur but assumes it does occur in spite of numerous prior studies and conclusions to the contrary,
- The Sandia study is not addressing resolutions, and
- An "open" dialogue is not occurring in that significant comments by industry were obviously not reviewed or even disseminated.

The oil and gas stakeholders respectfully request that you review the progress to date and clearly convey to the panel that the Sandia gas migration study is to be conducted in conformance with the Statement of Work. The oil and gas stakeholders also request that Sandia be required to have the study peer reviewed by independent outside professionals before it is released to the public. The process should have a mechanism to ensure that the independent reviewer understand there is a difference of opinion with respect to the study and should allow the Oil and Gas and Potash Stakeholders to provide their comments and supporting materials to the reviewer. This will insure a scientific appraisal by unbiased third party scientists, and that the final report will be based on a complete review of all of the factual and scientific data

ank you for your consideration of these important matters. As always, we will
oy to clarify or discuss any of these issues in more detail, and provide any
ε al information that may be helpful.

Very truly yours,

HINKLE, HENSLEY, SHANOR & MARTIN, L.L.P.

Mary Lynn Bogle
James M. Hudson
Attorneys for BEPCO, OXY and Devon Energy Production Co.

And

LOSEE, CARSON & HAAS, P.A.

James E. Haas by MLB

James E. Haas
Attorneys for Yates Petroleum Corporation

cc: Bill Auby, BLM
Mr. Tony Herrell, BLM
Ms. Linda Rundell, BLM
Bass Enterprises Production Co.
Devon Energy Production Co., L.P.
Occidental Petroleum Corporation
Plains Exploration & Production Co.
Yates Petroleum Corp.
Dr. Greg Hazlett
Mr. T.B. O'Brien
Dr. Lawrence Teufel

DEPARTMENT OF THE INTERIOR

TASKING PROFILE

ACCN #:	ESO-00000047	Status:	Open	Fiscal Year:	2009
Document Date:	**Received Date:**	**Due Date:**	**Action Office:**	**Signature Level:**	**Doc Source:**
01/13/2009	01/16/2009	02/25/2009	LLM	DR	ATTY

Addressee: Kempthorne, Dirk

From: Bogle, Mary Lynn; Haas, James E.

Attorney
Hinkle, Hensley, Shanor & Martin, L.L.P.
Roswell, NM 88202

Subject Text: Oil & Gas/Potash Matters

Concerned about the Sandia Gas Migration Study.

Req. Surnames: LM

Mail Carrier: FE **Mail Track #:** 796257412759

Cross Ref:

Copies To: SIO-Exsec ; LM

Status Tracking:

Correspondence Specialist and Phone: SIO-Exsec Pat Ennis/202-208-5291 OMC

Closed Comments:

Signed:

BLM Director's Office Correspondence Tracking Sheet

Orig. Ofc ID: 600-862

To: Ms. Mary lynn Bogle

From: Acting Director (BLM)

Through:

Subject: Sandia Labs Gas Migration Study

Date Received: 2/25/2009

Date of Letter:

WO#: WO-600

Comments: Please return to Debbie Lyons, WO-620, 401LS, (202)452-5101.

Exec Sec Due Date 2/25/09.

Drafted by New Mexico and 320. Requires surname by 320, 620, AD-300, AD-600, 100, ~~SOL,~~ ASLM.

Action	Person	Date
Delivered to	Johanna Munson	2/27/2009
Received by	Belva Fletcher	2/27/2009
Delivered to	WO-100	2/27/2009
Surnamed by	Celia Boddington	2/27/2009
Delivered to	WO-600	2/27/2009
Surnamed by	Bob Anderson	2/27/2009
Delivered for Surname to	Bob Anderson	2/26/2009
Received by	WO-300	2/26/2009
Delivered for Surname to	WO-300	2/26/2009
Surnamed by	Andrea Nelson	2/26/2009
Delivered for Surname to	WO-620	2/26/2009
Surnamed by	WO-320	2/26/2009
Delivered for Surname to	WO-320	2/25/2009
Received by	Debra Lyons	2/25/2009

Note: Correspondence that has no actions associated with it, will not appear in this report

Friday, February 27, 2009 bfletche

3/6/09 NEED

2/27/09 ~~Janet~~ ~~Amy~~ J. Janet ready for review!

High priority! Due Monday. would like to get to ASLM today!

RUSH

Mike 3/6/09 If you are ok w/ this letter, Janet is too.

Ready need to get to ASLM today!

Land and Minerals Management Correspondence Tracking System

Control No: 4019 Correspondence Date: 6/25/2009 Receive Date: 6/26/2009 Due Date 7/14/2009

	First Name	Last name		
From-->	HUTCHISON, KAYBAIL	CORNYN, JOHN	Agency:	SENATE
To-->	KEN L.	SALAZAR		

ES Number: ESO-00005664 Audit Number: SigLevel: SS

Subject: SURNAME PACKAGE - SENATORS HUTCHISON AND CORNYN WRITE TO THE SECRETARY REQUESTING THAT THE SANDIA STUDY OF OIL AND GAS/POTASH DEVELOPMENT IN THE SECRETARIAL POTASH AREA, CARLSBAD NEW MEXICO, BE RELEASED TO THE PUBLIC

Signature: IN SYLVIA'S OFFICE 8/12; PER RICH, H/C'D TO BLM 8/13; BACK IN AS/LM 8/17; GARETH GAVE TO SYLVIA 8/17; S/N'D BY S.BACA 8/12; CALLED BLM FOR P/U

Comments:

Reviewers

Names 1:	Aird, Brenda	8/10/2009	3:	Baca, Sylvia	8/12/2009
Dates 2:	Cardinale, Richard	8/11/2009	4:	Lewis, Wilma	

Browse | Add | Delete | Save | Search | Due | Rec | Reviewer Report | SigLevel | Names | Quit

Audit | Status

Form 1220-1
(April 1994)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CLEARANCE SHEET

~~International Travel Request~~

Controlled Correspondence 090194

Instructions to Originating Office

Attach to copies of documents being submitted for clearance. List all reviewing officials by office code and office title.
For Bureauwide Directives, list (550) – Directives and Information Services both before and after signing official.

RE: The status of studies related to the concurrent development of oil and gas and potash in the Secretary's Potash Area

RUSH

SIGN ALL DOCUMENTS IN BLACK OR BLUE INK

ROUTING (Begin with Originator) TO	SURNAME OR INITIAL	DATE	NON-CON-CUR-RENCE ≅
Division of Solid Minerals (WO-320)	[signature]	7/17/09	
Division of Fluid Minerals (WO310)	[signature]	7/17/09	
Leg. Affairs & Correspondence (WO620)	[signature]	7/21/09	
Minerals & Realty Management (AD300)	[signature]	7-29-09	
Communications (AD600)	C Ruddy	7-30-09	
Office of the Director (WO100)	[signature]	8/7/09	
ASLM	(See ASLM surname sheet)	8/12/09	
SOL	hct (see yellow sheet surname)	8/6/09	8/7/09
OCL	(handdel. 8/6/09) (see yellow surname sheet)	8/7/09	

need NM-SO surname - *See attached*

rec'd 8/4/09
8/5/09
This needs to move!

Please call Olivia Sierra (202-452-5139) for pick-up if edits required. Otherwise, please update Director's tracking sheet and hand-deliver to next office code on clearance sheet.
RETURN TO WO-620 Correspondence, 401LS, for Requested Edits or Preparation of Final Package.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

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The Honorable Kay Bailey Hutchison
United States Senator
284 Russell Senate Office Building
Washington, DC 20510-4304

Dear Senator Hutchison:

(b) (5)

United States Department of the Interior

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SOL Surname Pkg.

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The Honorable Kay Bailey Hutchison
United States Senator
284 Russell Senate Office Building
Washington, DC 20510-4304

Dear Senator Hutchison:

(b) (5)

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(b) (5)

Sincerely,

Ken Salazar

bc: ES:MIB:7229
LM:MIB:6628
SOL:MIB:6352
OCL:MIB:6242
LLM:WO620:LS:401
LLM:NM912
NM920
NM912

LLM:WO620:LS:401:OSierra:07/16/09:00005664:090194:3530

United States Senate

WASHINGTON, DC 20510

June 25, 2009

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

The United States owns significant deposits of both hydrocarbon resources and potash resources in an area consisting of 485,000 acres of federal land known as the Secretarial Potash Area in Carlsbad, New Mexico. With huge oil and gas resources still in the ground, for far too long, the co-development of both oil and gas and potash on these federal lands has been delayed to the detriment of the American people who seek more domestic energy production.

On July 25, 2007, we along with Senators Bingaman and Domenici, met with your predecessor, Secretary Kempthorne to resolve the policy disputes that have complicated the compatible development of oil and gas and potash on the federal lands in New Mexico. We agreed that the best way to proceed was to have an unbiased and qualified entity conduct studies of the key technical and scientific factual issues to eliminate those disputes and allow us to focus solely on what the policy should be. As a result of our meeting, the U.S. Department of the Interior (DOI) agreed to have the Sandia National Laboratory conduct two scientific studies on whether there was a realistic threat of gas migration from oil and gas wells to potash mines and whether the use of so-called "e-logs" was a methodologically valid means of identifying and mapping economically recoverable potash reserves. It is our understanding that Sandia has concluded both of these studies, yet none of the results from either study has been made public.

The results of these studies will provide an impartial, science-based report from which the DOI can establish a co-development policy needed to manage these critical natural resources that are owned by the federal government and held in trust for the American people. We respectfully ask that DOI work expeditiously to make public the results of the studies. Additionally, we would ask DOI brief us on the findings of the studies and how the Department recommends resolving the long-standing dispute over the co-development of these natural resources.

Thank you for your attention to this important matter, and please do not hesitate to contact us if we can be of any assistance.

Sincerely,

Kay Bailey Hutchison

John Cornyn

New Mexico SD

Linda Rundell/NMSO/NM/BLM/DOI
07/21/2009 06:24 PM

To Andrea Nelson/WO/BLM/DOI@BLM
cc Jesse Juen/NMSO/NM/BLM/DOI@BLM.gov, Linda Rundell/NMSO/NM/BLM/DOI@BLM.gov, Lisa Morrison/NMSO/NM/BLM/DOI@BLM.gov
bcc
Subject Re: URGENT -- need your review of edits to potash letter

Andrea, I think it is fine.
Andrea Nelson/WO/BLM/DOI

Andrea Nelson/WO/BLM/DOI
07/21/2009 03:03 PM

To Linda Rundell/NMSO/NM/BLM/DOI@BLM.gov, Jesse Juen/NMSO/NM/BLM/DOI@BLM.gov
cc Lisa Morrison/NMSO/NM/BLM/DOI@BLM.gov
Subject URGENT -- need your review of edits to potash letter

Linda and Jesse -- sorry for the short notice, but we have a few edits to the Secretary's response to Senators Hutchison and Cornyn on the Sandia potash studies. -- Would you read this version and let me know if you have concerns/edits, or if it has your approval.
Many thanks, Andrea. 202-452-5004

(b) (5)

(b) (5)

Sincerely,

Bureau of Land Management
New Mexico, Oklahoma, Kansas, Texas

ISSUE PAPER June 18, 2009

FROM: Linda Rundell, State Director, BLM New Mexico

PHONE: (505) 438-7501

SUBJECT: **Oil and Gas, and Potash Conflicts**

I. SUMMARY

(b) (5)

II. DISCUSSION

(b) (5)

NATIONAL SYSTEM OF PUBLIC LANDS

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Litigation

(b) (5)

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III. MESSAGE

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PREPARED BY: Jim Stovall, Carlsbad Field Manager
PHONE: (575) 234-5981

NATIONAL SYSTEM OF PUBLIC LANDS

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Sincerely,

Ken Salazar

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LLM:WO620:LS:401:OSierra:07/16/09:00005664:090194:3530

The Honorable Kay Bailey Hutchison
United States Senator
284 Russell Senate Office Building
Washington, DC 20510-4304

Dear Senator Hutchison:

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Sincerely,

Ken Salazar

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bcc:

NM9200
NM9120

NM9200:T.Herrell:mde:505-438-7595:09CC064_Hutchison_Cornyn_OilandGash_Potash

See SP4

The Honorable Kay Bailey Hutchison
United States Senator
284 Russell Senate Office Building
Washington, DC 20510-4304

Dear Senator Hutchison:

(b) (5)

(b) (5)

Sincerely,

Ken Salazar

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bcc:
NM9200
NM9120

NM9200:T.Herrell:mde:505-438-7595:09CC064_Hutchison_Cornyn_OilandGash_Potash

United States Department of the Interior

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OCL Surname Sheet

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The Honorable Kay Bailey Hutchison
United States Senator
284 Russell Senate Office Building
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Dear Senator Hutchison:

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