United States Department of the Interior
Bureau of Land Management

Decision Record
DOI-BLM-CO-S010-2009-0076

June 2013

RM Potash Exploration Project

Location: T. 43 N., R. 19 W., sec. 11, 14 (COC73567);
T. 43 N., R. 19 W., sec. 13, 23-26 (COC73569);
T. 43 N., R. 18 W., sec. 20, 29, 32; T. 42 N., R. 18 W., sec. 5 (COC73572);
T. 43 N., R. 18 W., sec. 28, 33; T. 42 N., R. 18 W, sec. 4, 9, 16 (COC73574);
T. 42 N., R. 18 W., sec. 3, 10, 15 (COC73576);
T. 42 N., R. 19 W., sec. 4, 5, 9, 10, 13; T. 42 N., R. 18 W., sec. 32 (COC74370).

Dolores and San Miguel Counties, Colorado

Applicant/Address: ***RM Potash, Inc.***
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BLM

DECISION RECORD
DOI-BLM-CO-S010-2009-0076-EA
RM Potash Exploration Project

DECISION:
I have reviewed the application submitted by RM Potash and the Environmental Assessment (DOI-BLM-CO-SO10-2009-0076-EA) and a Finding of No Significant Impact (FONSI, June 2013) for the RM Potash Exploration Project. After review of those documents, it is my decision to approve the exploration activities described in the Proposed Action of the EA, with design features (EA at Section 2.2.8) incorporated as conditions of approval (Attachment 1). I have also decided to defer my decision on Drill Site Six at this time (EA at 18).

If and when the Gunnison sage-grouse species is listed, the BLM will initiate consultation with the USFWS on the Proposed Action in accordance with Section 7 of the Endangered Species Act. RM Potash may be required to stop activities in critical habitat until consultation is completed. Once consultation is completed, RM Potash will adhere to any additional conservation measures identified by the USFWS through the consultation process (EA at 67).

The following are the approved Prospecting Permit Applications:

COC-73567 – DH1;
COC-73569 – DH2;
COC-73572 – DH3;
COC-73574 – DH4;
COC 73576 – DH5

Authorities:
The authority for this decision is contained in Department of the Interior regulations found in Title 43 Code of Federal Regulations, Part 3500 (43 CFR §3500 Leasing of Solid Minerals other than Coal and Oil Shale), Subpart 3505 (43 CFR §3505 Prospecting Permits), Subpart 3590 (43 CFR §3590 Solid Minerals Exploration and Mining Operations – General), Subpart 3592 (43 CFR §3592 – Plans and Maps), The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Independent Offices Appropriations Act (31 U.S.C. 9701).

Compliance and Monitoring

The Bureau of Land Management (BLM) will monitor activities for compliance with the approved operating plan(s). The permit holder will be required to

submit copies of drilling logs, cementing and casing logs for both drilling and abandonment, and receipts for off-site disposal of all hazardous materials to BLM for their review.

The permit holder will submit photographic monitoring of each site before, during, and after reclamation to document the reclamation process at each site. A rehabilitation report documenting the reclamation will be submitted to BLM within 12 months of completing the drilling (EA at 27).

For each drill hole, the permit holder will keep a detailed log of water use, including the source of water, the actual use, and submit to BLM.

Archeological and Paleontological surveys have been completed for each drill site. If archeological or paleontological resources are found during the course of activities, the permit holder will stop activity, and report it to the BLM, and further archeological/paleontological monitoring may be required.

Terms / Conditions / Stipulations:
Prior to the initiation of drilling, for each drill hole the permit holder will submit a detailed surface use plan of operations, a detailed drilling and abandonment plan which describes the order of operations and drilling procedures in detail, and which conforms in general to the proposed action as set forth in the EA. These site specific plans must be prepared and approved by a professional engineer and submitted to the BLM for acceptance. It is recommended RM Potash reference BLM's Onshore Orders 1, 2 and 6 for guidance in the preparation of these plans, as well as any other state and federal laws which are used as standard operating procedures for Oil and Gas drilling. Once accepted by BLM, the site specific plans will be part of the approved plan of operations, and will be the basis upon which the bond is calculated for each drill hole. No operations may take place until a bond has been submitted to BLM and accepted. The bond must cover the cost of surface reclamation, as well as drill hole plugging and abandonment.

The design features, environmental protection measures and best management practices (BMPs) from section 2.2.8 of the EA are incorporated as conditions of approval. Please see complete list of Conditions of Approval in Attachment 1.

Plan Conformance and Consistency:

This decision has been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision(s):

San Juan/San Miguel Resource Management Plan (RMP) and Record of Decision (ROD) (September 1985), as Amended (1991).

Minerals Management is consistent with the objectives, goals, and decisions as stated on pages 16 and 17 of the RMP ROD. Lands under consideration in this proposal are open for all mineral activity (EA at section 1.6). The relationship of

the proposed action to statutes, regulations or other plans is discussed in section 1.7 of the EA (Eat at 7 and 8).

Alternatives Considered:

The EA considered the Proposed Action with design features (Section 2.2.8 of EA) and the No Action Alternative. The No Action alternative would not meet the purpose and need for action. No other alternatives were needed to address any unresolved conflicts of resources. Applicable design features have been incorporated into the Proposed Action to avoid and minimize effects to resources present within the proposed Project Area (Section 2.4 of EA).

Rationale for Decision:

- The decision to approve he Proposed Action and deferral of drill site 6 and associated design features will meet the purpose of and need for action, and will respond to the applications submitted by RM Potash under the Mineral Leasing Act of 1920, as amended (MLA) and Federal Land Policy Management Act.

- In addition to meeting the purpose and need for action, the Proposed Action was selected because it was designed to minimize and/or avoid effects to resources.

- The Proposed Action is in conformance with the San Juan/San Miguel Resource Management Plan (1985), as amended (1991) and as described in section 1.6 of EA.

The authority for this decision is contained in Department of the Interior regulations found in Title 43 Code of Federal Regulations, Part 3500 (43 CFR §3500 Leasing of Solid Minerals other than Coal and Oil Shale).

Public Involvement:

A Notice of Scoping was posted on the BLM Newsroom web page on June 28, 2011. In addition, a public scoping letter was mailed to 74 addresses on June 24, 2011. The scoping mailing list is provided in the RM Potash Exploration Project Scoping Report (BLM 2011a). A public scoping meeting was held at the Dove Creek High School Commons in Dove Creek, Colorado on July 12, 2011. During the scoping meeting, 16 people registered their attendance. Written scoping comments were accepted via mail, e-mail, the website, and fax resulting in a total of 15 scoping responders. Resource issues for the Proposed Action were identified through public and internal scoping.

On October 26, 2012, a request for comments was posted on the BLM Newsroom web page and the EA was posted for public review on the BLM

website:(http://www.blm.gov/co/st/en/BLM_Information/nepa/TRFO_NEPA). The 30-day comment period ended November 26, 2012. Seventeen comment letters and/or information inquiries were received. Comment letters were reviewed and those that included substantive comments were addressed in a comment response matrix (Appendix G of EA). All of the correspondence received on the EA is in the Project Record (EA at 83).

Protest/Appeal:
This decision may be appealed to the Interior Board of Land Appeals, U.S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and the Form 1842-1. If an appeal is taken, your notice of appeal must be filed with the authorized officer within 30 days either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. The appellant has the burden of showing that the decision appealed from is in error. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Connie Clementson, Field Manager
Tres Rios Field Office
29211 HWY 184
Dolores, CO 81323

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time the original documents are filed with this office, copies of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to each party named in this decision and to the U.S. DOI Solicitor at the following address:

Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

If a statement of reasons is filed separately from the notice of appeal it also must be sent to the following location within 30 days after the notice of appeal was filed:

U.S. Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, Suite 300
Arlington, Virginia 22203

If you wish to file a petition for a stay of the effectiveness of this Decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the ·following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success of the merits:
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Connie Clementson
Field Manager
Tres Rios Field Office

Date 6·10·2013

Attachment 1 – Conditions of Approval

The following conditions of approval are taken from section 2.2.8 of the RM Potash Exploration Project EA.

Reclamation

Following the reclamation activities, each drill site area will be fenced with three-strand wire and t-posts to aid in reclamation success by preventing livestock and/or big game access to seeded areas. Once the reclamation has been deemed successful according to appropriate criteria, the fence will be removed.

For any road construction/improvement/widening where vegetation is beyond recovery and compaction of the road bed has occurred, then the following measures will be required on an as-needed basis:

- Re-grading any cuts and fills to re-establish the original ground contours and drainages.
- Construction of drainage dips at the appropriate spacing.
- Any access across private land will be reclaimed back to the original condition, or may be left in its improved state, as per the desires of the private land owner.
- Ripping the new road construction to a depth of 12 to 18 inches.
- Placing 6 inches of loose topsoil in locations where topsoil was removed (if applicable).
- Seeding the soil with a BLM-approved seed mix following ripping and before physical crusts form on the soil surface.
- Placing slash (shrubs and woody material removed from the route to make it passable) on the reclaimed road bed as a final step, alternately slash may be incorporated into the topsoil and the road compacted to prevent erosion.
- Approximately the first 100 feet of the access road may be ripped, seeded, and blocked even if the rest of the road does not need reclamation treatment, at BLM's discretion.

Additional applicable general reclamation measures will also be implemented for the overall Project and include:

- Closed loop, pitless drilling systems will be used. Water-based cuttings will be dried on site and stored on pads for future on-site burial or off-site disposal. Oil-based cuttings will be stored in steel containers and transported off site to a licensed, commercial waste disposal facility.
- Reclamation of drill sites and access roads will include weed control for three years post reclamation.

- Post reclamation success will be gauged by 70 percent vegetation and crown cover over the entire disturbed area and 60 percent ground cover (vegetation, rock, litter) or until equivalent of surrounding vegetation is reached.
- The operator may be directed to gravel portions of affected roads prior to or during Project implementation if needed to prevent mud or rutting. Any gravel applied may be removed after the end of operations, or left in place with the consent of the county and BLM.

Water Protection

- A Storm Water Pollution Prevention Plan (SWPPP) shall be completed for the Project, as an attachment to the Exploration Plan for each drill site. The Project-specific SWPPP will identify structural and non-structural controls that will be put in place to minimize erosion and run-off of pollutants and sediment. The SWPPP supports compliance with the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit and complies with the Clean Water Act.
- Baseline water quality samples shall be taken from the groundwater well located closest to each drill hole, contingent upon owner consent. Results of these samples will be used to ensure that there is no degradation of groundwater supplies as a result of the Project. Since there are no wells near proposed Drill Site 5, Quakie Spring or Sawmill Spring will be sampled to get a representative baseline analysis of groundwater quality.
- Diesel fuel for the drilling rig and support equipment will be stored in approved tanks positioned in bermed areas lined with at least 35 millimeter (mil) impermeable plastic so that any spills will be contained. These bermed areas shall be of sufficient volume to contain at least 150 percent of the entire contents of the tank should a full tank rupture. Drilling mud will be contained within a pitless, closed loop drilling system used to drill both the fresh water-based and oil-based mud sections. This mud system will be fully contained (i.e. closed system, not released to the environment) and will be reused at future drilling locations or transported to a commercial waste facility for recycling or disposal. Oil-based mud and oil-contaminated cuttings will be stored in steel drums and hauled off site for proper disposal at a permitted solid waste facility.

Noxious and Invasive Weed Species

A weed management plan will be implemented (EA Appendix C) to provide preventative BMPs and control treatment. RM Potash is responsible for noxious and invasive weed species control and will be bonded for reclamation that includes this.

- Ground and vegetation disturbance will be kept to the minimum possible.
- Equipment will be cleaned of all mud, plant parts, and seed prior to entering BLM lands.
- Seeded topsoil stockpiles will be maintained in weed-free condition.

Range Management

- All range improvements will be protected during exploration and/or drilling.
- Fences must be kept in good repair during operations. No fences will be cut unless absolutely necessary and agreed to in writing by the BLM. Any fences damaged as a result of the Project will be repaired immediately by RM Potash.
- Any pasture gates must remain closed when cattle are in or adjacent to affected pastures. RM Potash will coordinate with the BLM on rotation schedules.
- Livestock permit holders will be made aware of Project activities, schedule, and locations.

Soils

The naturally occurring topsoil from the improved access roads and drill sites will be stripped from the sites, stockpiled in long, shallow windrows, seeded and maintained weed-free, and saved for future final reclamation. When the disturbed ground is reclaimed, the topsoil will be spread back over the re-contoured surface and ripped to create a rough surface to promote natural seed collection, then seeded by broadcasting.

Drill sites will be graded so that any soil eroded from the drill site will be contained on site. If needed, water bars will be constructed on access roads to minimize soil erosion and approved culverts will be used where access roads cross gulleys or drainages, as approved by landowner (i.e., BLM, County, or private).

Wildlife

The following timing limitations will be adhered to:

- No surface disturbance: No surface disturbance within 0.6 mile radius of a Gunnison sage-grouse lek. (Drill site 6 has deferred at this time; no other drill sites would be impacted by this measure).
- Timing Limitation Gunnison Sage-Grouse: Timing limitations for Project occupation, noise, and operations will be applied to protect lekking and nesting Gunnison Sage-Grouse. Timing limitation to protect Gunnison sage-grouse nesting habitat from March 1 to June 30.

- Timing Limitation Big Game: Timing limitation to protect big game (deer/elk) crucial winter range December 1 to April 30. Timing limitation to protect big game production areas April 15 to June 30.

Additional wildlife restrictions for the Project Area include:

- Big Game Production Areas: Elk and Deer, Timing Limitation Stipulation May 15 - June 30.
- Big Game Winter Range: Elk and Deer, Timing Limitation Stipulation December 1 – April 30.
- Big Game Critical/Severe Winter Range: Elk and Deer, Timing Limitation Stipulation December 1 - April 30.
- Sage-grouse Lek (Mapped): No surface disturbance within 0.6 mile radius. (Drill site 6 has not been authorized; no other drill sites would be impacted by this measure).
- Mexican spotted owl: Timing limitation, no authorized activities will take place within ½ mile of the Dolores River canyon rim between March 15 – August 31. (Unless a survey is completed following BLM-specified protocols, and indicates that these birds are not present.)

Wildlife timing restrictions and associated noise restrictions are shown in Figure F1 and Table F1 of Appendix F of the EA.

Migratory Birds

If possible, construction will be limited to outside the nesting season for migratory birds (May 15 – July 15). If construction were to be initiated prior to the end of the nesting season, a pre-construction nest survey will be conducted in areas where Project activities could impact existing vegetation so that active nests could be avoided until after fledging. Pre-construction surveys will be conducted for Sensitive bird species in conjunction with migratory birds in suitable habitat. If any migratory bird nests were discovered along the route, BLM will be notified and the nest will be avoided until birds have fledged.

(Note: Drill pads may be cleared of vegetation outside of nesting bird seasons, so that future drilling activities may occur during this time without the concern that of new nests becoming established. In such cases, drill pads must be fenced, seeded with a native-grass only seed mix, and treated for weeds, and that a partial bond be submitted to BLM/DRMS and accepted by them for reclamation of the drill pad and access road. Such pads should be seeded and monitored for weeds until such they are to be drilled.)

Hazardous Materials

Diesel fuel for the drilling rig and support equipment will be stored in approved tanks positioned in bermed areas lined with at least 35 mil impermeable plastic so that any spills will be contained. These bermed areas will be of sufficient

volume to contain 150 percent of the entire contents of the tank should a full tank rupture. The water-based and oil-based drilling mud will be contained and re-circulated from tanks within a lined (at least a 35 mil impermeable liner), bermed area also designed for 150 percent containment for any potential spills. The oil-based mud system will be fully contained, and oil-contaminated cuttings will be stored in steel drums and hauled off site for proper disposal at licensed, commercial waste facilities.

All heavy equipment and service vehicles will have a supply of absorbent and other cleanup materials on hand for initial containment of spills and the Project will adhere to the Hazardous Substance Spill Plan in case of accidents. Stationary equipment will have absorbent pads or trays placed beneath them.

Refueling areas will be a minimum of 300 feet from perennial and intermittent stream channels, seeps and springs, wetlands, lakes and reservoirs, stock water developments, and other water features.

A Spill Prevention, Control, and Countermeasure (SPCC) Plan will be completed for the Project, as an attachment to the Exploration Plan. The Project-specific SPCC will identify structural and non-structural controls that will be put in place to prevent spills and minimize effects in the event of a spill. The spill kit will reside on site during all drilling activities.

A hydrogen sulfide (H2S) contingency plan will be completed for the Project, as an attachment to the Exploration Plan. This plan will ensure that all rig personnel are properly trained to work in a hydrogen sulfide environment and fully understand the purpose of hydrogen sulfide monitors and alarms, and the action to take when alarms visual/audible initiate. All crew members will be trained to understand the buddy system, safe briefing areas, muster stations, emergency evacuation procedures, and individual duties.

The Project will conform to the Joint Agency Guidelines for Uranium Exploration Drilling Reclamation (USFS et al. 2007). Prior to exploration disturbance, background radiation level readings will be taken at each drill site. This data will be used as a reclamation standard for cleanup of each drill site. These guidelines contain conditions/restrictions for radiation readings, drill hole abandonment, on-site drill cuttings disposal (non-diesel only), radiation reclamation, and overall reclamation (Appendix D). Water-based drill cuttings that do not meet state COGCC standards for cuttings disposal set forth in Table 910 (Appendix D) will be hauled off site to a permitted land farm facility.

Solid Waste

Dried, water-based cuttings will only be stored on site within a bermed, lined cuttings pad. If the chemical makeup of the dry cuttings material is below contaminant thresholds by the State of Colorado (COGCC Rule 907d), this material could be buried in an on-site trench. Cuttings not meeting State of

Colorado thresholds will be transported off site to a licensed commercial waste disposal facility.

In accordance with the Joint Agency Guidelines for Uranium Exploration Drilling Reclamation (USFS et al. 2007), if any of the dried water-based cuttings show radioactive readings in excess of background readings (see Hazardous Materials section above), they shall be buried and covered with no less than 3 feet of earthen material to bring radiation readings back to background levels. The goal of radiation reclamation is for all exploration drill hole locations to be abandoned with radiation levels that are no more than the level that was measured for the background readings. Following drill hole abandonment, radiological data shall be obtained at each drill location to verify.

No construction or domestic refuse or garbage will be disposed of by burning; all such material will be hauled away for disposal at permitted facilities.

Fluid Waste

All drilling fluids will be contained within a closed-loop mud system. Upon completion of drilling, all water-based and oil-based drilling fluids will either be reused at a future drilling locations or transported to a commercial waste facility for recycling or disposal.

Noise

Personnel will be required to comply with all applicable federal, state, and local laws and regulations concerning prevention and control of noise during Project construction and operation.

Fire

The drilling operations area, approximately 250 by 250 feet, will be prepared by grading and leveling. All vegetation and topsoil will be stockpiled. This drill site size will allow for drilling operations to be conducted within an area that has a periphery of bare earth between the drilling and support equipment and adjacent vegetation. Drilling and support equipment will have approved fire suppression equipment and the drilling crews will be trained in its use. Any gas flaring equipment will be located on an area of bare soil in a 25 foot radius from the flare. The flare will be directed vertically upwards to prevent ignition.

Public Safety

The public will be warned of the dangers of equipment and drilling operation by adequate signage. Where possible, drill sites will be gated or chained to prevent public access. No firearms will be allowed on the drill site. Vehicles will not exceed posted speed limits and if necessary, speeds will be reduced, especially when other vehicles are present or wildlife is active near access roads. Blow out prevention (3000 psi minimum) and a hydrogen sulfide contingency plan will protect the public from well control issues.

Transportation/Access

The following restrictions, requirements, and considerations will be implemented, as applicable, during Project activities related to transportation/access issues:

- RM Potash will need to obtain applicable road use permits from San Miguel and Dolores Counties prior to using County roads for Project activities, which could potentially include posting applicable bonds.
- All Project-related vehicles will adhere to posted speed limits on roads. Oversize and articulated vehicles will be restricted to 35 mph or less on access roads, as conditions warrant.
- Speed limits along the existing County Line Road/CR F4E road will be reduced to 15 mph for all oversized and articulated Project-related vehicles between Highway 141 and CR F11 road and during known school bus routes between the hours of 6:45-8 am and 4-5:15 pm during scheduled school days. These times will be verified with the Dolores County School District prior to Project activities. Further, during these hours any other Project related traffic will need to maintain speed limits 10 mph lower than posted limits along known school bus routes.
- If the reduced speed limits are not adequate for dust control, RM Potash will need to implement appropriate dust control methods to minimize dust.
- Project-related vehicle parking will be restricted to either County designated parking areas or areas cleared for the Project (i.e., drill pads).