

Moran, Jill C

From: Herrell, Tony J
Sent: Tuesday, September 04, 2012 12:57 PM
To: Moran, Jill C
Subject: FW: JITC Comments to Proposed Order for the SPA
Attachments: JITC Comments to Salazar-Concho Sign 8-3-12 undated.pdf; Comment letter to Salazar Attachment I 7 30 12 .docx; Comment letter to Salazar 7 30 12 proposed final clean.docx

From: Robert Ready [mailto:rready@concho.com]
Sent: Friday, August 03, 2012 10:30 AM
To: John Smitherman; John Mansanti; Herrell, Tony J
Subject: JITC Comments to Proposed Order for the SPA

John, John, and Tony,

Attached is an executed Concho signature page, to confirm our approval of the JITC comments to the proposed Order, after our review and approval of the final comment documents. If the final comment documents are the same those as those submitted via the email below from John Smitherman sent July 31, 2012 at 12:18 (copies attached), then Concho hereby approves the same and authorizes use of its signature page.

For flexibility, the Concho signature is not dated. Subject to the above, please fill in the date when it has been determined. The original will be delivered to the attention of John Smitherman by Fed Ex on Monday morning (advise if other delivery, earlier or to a different party, is preferred).

Please let me know the status of approval and signature by the other JITC companies, and the date we anticipate delivering the comments to the Secretary.

Thank you,

J. Robert Ready
Government Affairs/Regulatory Manager
COG Operating LLC - Concho Resources Inc
One Concho Center, 600 W Illinois Avenue
Midland, Texas 79701
Direct (432) 685-4345
rready@concho.com

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

From: Smitherman, John [mailto:jrsmitherman@BassPet.Com]
Sent: July 31, 2012 12:18
To: Smitherman, John; [Donna Havins@oxy.com](mailto:Donna.Havins@oxy.com); Dan.Morehouse@mosaicco.com;
Don.Purvis@mosaicco.com; jimb@yatespetroleum.com; john.mansanti@intrepidpotash.com; Robert Ready; cmjohnson@cimarex.com; Randy.Bolles@dvn.com; Eileen.D.Dey@conocophillips.com;
peter.m.bazin@conocophillips.com; Suzi.Holland@chevron.com; sanderson@3rnr.com;
Keith.Sevin@oxy.com; ralexander@cimarex.com; Merson, John A; Kevin Ryan; Martin Litt; Dey, Eileen D; david.g.harms@conocophillips.com; tkane@3rnr.com; denise.woods@oxy.com

Cc: Roper, Mitch; McCreight, Frank; Herrell, Tony J; Juen, Jesse J; Stovall, James K
Subject: RE: Comment letter to Secretary Salazar

JITC members,

I attached the wrong version of the letter attachment to my earlier email. The following changes have been made in the new attachment relative to the version I attached earlier:

* Item 2, Section 6.e.(1)(c) begins with deleted text "If the drilling will occur from" - that text does not appear in the draft Order and has been removed as deleted text.

* Item 4, Section 4.f., first sentence, second line contains the word "current" which does not appear in the draft Order and has been removed. The fourth line near the end, contains the word "commercial" - that text does not appear in the draft Order and has been removed per our earlier discussions. The third sentence contains the word "Island" that had an optional plural "(s)" in the original draft Order which has been restored. Finally, the last sentence ends with "Section 3.III.E.2." - that text does not appear in the draft Order, which instead contains the correct reference "Section 6.e.(2)" so the proposed correction on the referenced has been removed.

* Item 5, Section 6.e.(7), second sentence added the word "current" in strikeout mode (which we propose to be deleted) and restored the words "potash lessees and operators" back to original text rather than a highlighted addition as these are unchanged from the original text.

My apologies for this inconvenience.

John R. Smitherman
V.P. Operations
BOPCO, L.P.
201 Main St. Suite 3100
Fort Worth, Texas 76102
817-390-8805

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

From: Smitherman, John
Sent: Tuesday, July 31, 2012 9:29 AM
To: Smitherman, John; Donna_Havins@oxy.com; Dan.Morehouse@mosaicco.com;
Don.Purvis@mosaicco.com; jimb@yatespetroleum.com; john.mansanti@intrepidpotash.com;
rready@conchoresources.com; cmjohnson@cimarex.com; Randy.Bolles@dvn.com;
Eileen.D.Dey@conocophillips.com; peter.m.bazin@conocophillips.com; Suzi.Holland@chevron.com;
sanderson@3rnr.com; Keith_Sevin@oxy.com; ralexander@cimarex.com; Merson, John A; Kevin Ryan;
Martin Litt; Dey, Eileen D; david.g.harms@conocophillips.com; tkane@3rnr.com;
denise_woods@oxy.com
Cc: Roper, Mitch; McCreight, Frank; Herrell, Tony J; Juen, Jesse J; Stovall, James K
Subject: RE: Comment letter to Secretary Salazar

JITC members,

Several members of the committee provided very helpful feedback on the proposed letter to Secretary Salazar that we distributed last week. We have taken that feedback and improved the letter that you will now find attached hereto. I have dated the letter as of today so those who have signed signature pages prior to today's date should again sign with today's date and scan and resend to me for inclusion in the final package. I apologize to those who have already signed the signature page for this inconvenience. As there were several comments and suggestions from member companies, it was inevitable that some comments were acted upon and

others were not. As we made these decisions we relied upon the principle that we wanted to limit the number of actual requests for changes to the proposed Order so that we would be more assured to have the DOI accept all of those most important changes. This did leave several changes that member companies wanted out of the comment letter. This did not mean that those comments that were omitted from this letter were not important, just that they were not the most important to the group. Further, we wanted to express the desires of the committee in an assertive but not disrespectful manner. Hopefully this final version finds that important balance.

Please review this final version in redline and clean and please sign and date the signature pages and return them to me with cc's to John Mansanti and Tony Herrell. I will collect the documents and submit the package as soon as we have it complete.

John R. Smitherman
V.P. Operations
BOPCO, L.P.
201 Main St. Suite 3100
Fort Worth, Texas 76102
817-390-8805

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Comments to the Draft Secretarial Order
Prepared by the Joint Industry Technical Committee

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



Steven H. Pruett
Senior Vice President of Corporate Development

JRP

_____ Date

ATTACHMENT I
Joint Committee Comments
Proposed Order of the Secretary of the Interior
Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea
Counties, New Mexico

ITEM 1:

Section 4 Definitions.

- 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.~~

ITEM 2:

Section 6 General Provisions.

- e. Oil and Gas Drilling

- (1) Drilling within the Designated Potash Area.

(c) ~~a single well site established under this Order by the approval and in the sole discretion of the Authorized Officer, provided that such site was jointly recommended to the Authorized Officer by the oil and gas lessee(s) and the nearest potash lessee(s)~~ a Drilling Island or single well site established under this Order by the authorization of the Authorized Officer, provided that such site was jointly recommended to the Authorized Officer by the oil and gas lessee(s) and the nearest potash lessee(s).

ITEM 3:

Section 6 General Provisions.

- e. Oil and Gas Drilling

- (8) Access to Maps and Surveys

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

ITEM 4:

Section 4 Definitions.

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

Section 6 General Provisions.

- e. Oil and Gas Drilling

(2) Development Areas.

(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~~-managing the impact on potash resources;

ITEM 5:

Section 6 General Provisions.

- e. Oil and Gas Drilling

- (7) Notice to ~~Potash Lessees~~Affected Parties. An applicant for an APD, or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area and to the owners of the oil and gas rights and surface owners affected by such application, plan or proposal. A list of ~~current~~-the affected potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan or proposal. This notice should be prior to or concurrent with the submission of the application, plan or proposal to the BLM. The BLM will not authorize any action prior to this notice.

July 31, 2012

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

RE: Joint Committee Comments
Proposed Order of the Secretary of the Interior
Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of
Eddy and Lea Counties, New Mexico

Dear Mr. Secretary:

First of all, we sincerely appreciate your efforts to bring together the potash and oil and gas industries to promote the development of the invaluable resources found in Eddy and Lea Counties, New Mexico. As you will recall, there was consensus by both industries regarding what should be included in the proposed Order, as reflected in the Consensus Document submitted to you in April of this year. Pursuant to your directions, the Joint Industry Technical Committee (the "Committee") of the potash and oil and gas industries submitted comments to an early draft of the proposed new Order. However, when the proposed Order was issued, several meaningful revisions had been made. You requested comments on the Order published in the Federal Register on July 13, 2012 and the members of the Committee respectfully submit the following comments and revisions for your consideration:

1) Section 4.d provides that "Co-development may require that the development of the resources occur at different times and from different places." Co-development was the fundamental concept on which discussions about the new Order were based and the inclusion of any language that might provide the BLM with the ability to apply time restrictions on development was fully debated. There was consensus that neither the potash nor the oil and gas industry would propose such a provision. The new co-development definition, inserted in Section 4.d of the Order, could be utilized to term limit Drilling Islands and provide a vehicle to postpone or delay permits for drilling or mining operations. The Committee requests that Section 4.d be deleted in its entirety; Alternatively, at a minimum, the Committee requests that the last sentence of this section regarding co-development be deleted, as shown in Item 1 on Attachment I to this letter.

2) Section 6.e.(1)(c) of the Committee's draft was inserted to encourage BLM's approval of Drilling Islands and individual well sites where such Drilling Islands or well sites are jointly recommended by the oil and gas operator and the potash lessee(s) and was intended to support the use of private agreements. The proposed Order refers to single well sites only and does not refer to or otherwise encourage approval of Drilling Islands that are supported by the oil

and gas operator and potash lessee. It is important to be able to establish Drilling Islands as well as single well sites even if Development Areas are not established when both the oil and gas operator and the affected potash lessee support the proposal. The Committee requests amending Section 6.e.(1)(c) of the Order as shown in Item 2 on the Attachment I.

3) Section 6.e.(8)(c) providing for access to existing core data for oil and gas operators engaged in the design of core acquisition program to prove an area to be barren of potash has also been changed. The responsibility of the BLM to provide the data was altered to “encourage . . .the owners of the records” to release the information. This amended language would allow the “owners of record” to withhold this vital data that the BLM has available. The Committee requests that Section 6.e.(8)(c) of your Draft be amended to include the language shown in Item 3 on the Attachment I.

4) The Committee’s language in Sections 4.f. and 6.e.(2)(d)(i) provides that development areas will be established to “allow effective extraction of oil and gas resources while **managing** the impact on potash resources.” This language has now been changed to provide that development areas will be established to “allow effective extraction of oil and gas resources while **limiting** the impact on potash resources.” The Drilling Island and Development Area concepts contemplated under the recommended Secretarial Order balance the interests of both potash and oil and gas. Again, this language submitted by the Committee was thoroughly debated and the Committee’s language was supported by both industries. The Committee recommends restoring the consensus language of the Committee as reflected in Item 4 on Attachment I.

5) The draft Order omits important notice requirements to some affected parties. The Committee recommends that all potash interests and those oil and gas and surface rights owners be given notice of proposed drilling. This could be accomplished by amending Section 6.e.(7) of the Order as shown in Item 5 on Attachment I.

The Joint Committee has worked very hard to accommodate the needs of both the potash industry and the oil and gas industry and to promote the timely and economic development of both resources. The revisions requested are fully supported by both the potash and oil and gas industries. Your consideration would be greatly appreciated.

Respectfully,

DJK:lg

Enclosure