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Bureau of Land Management
New Mexico State Office
301 Dinosaur Trail
Santa Fe, New Mexico 87508

Attention: Mr. Tony Herrell
Deputy State Director, Mineral Resources

RE: Comments & Objections to Draft Order to Supersede Orders 51 FR 39425 & 52 FR 32171 dealing with oil & gas development within the Designated Potash Area

Thank you for allowing the opportunity to submit comments for your consideration on the proposed order that will supersede Secretarial Orders 51 FR 39425 and 52 FR 32171 ("Orders"). While we certainly are in favor of attempts to foster more orderly co-development of oil and gas and potash deposits within the Designated Potash Area ("DPA"), we feel that the proposed order is actually a step backwards, at least regarding the development of oil and gas resources, from the existing Orders, which we already perceive to be overly restrictive to the development of oil and gas resources within the DPA.

As you are well aware, the DPA contains prolific oil and gas reserves as well as potash resources. Potash lessees currently hold leases covering 143,308 acres of federal lands in the 497,000 acre area (29% of the DPA) and oil and gas lessees currently hold oil and gas leases for 337,705 acres of federal lands in the DPA (68% of the DPA). It is safe to say that most, if not all, of the federal lands within the DPA would be leased for oil and gas exploration if these lands were made available for oil and gas exploration. It appears to us that the proposed order would more severely limit oil and gas development in the entire 497,000 acre area than is already provided for in the overly restrictive existing Orders.

In a time of unprecedented federal debt, we feel that is of extreme importance that the value of the oil and gas resource relative to the value of the potash resource is worthy of consideration in the discussion of resource development within the DPA. As I am sure you are aware, current royalty income to the federal government within the DPA from existing oil and gas production is several times that of royalty income from the potash mines within the DPA. In addition, the future potential revenue (as projected by a study of the untapped petroleum resources conducted by the Petroleum Resource Recovery Institute at New Mexico Tech in 2009) to the federal government is $2.5-$5.2 billion (excluding State of New Mexico share of MMS royalty), as well as $7.5-$15.8 billion to the State of New Mexico (including MMS royalty shares, state royalty and taxes other than Ad Valorem). The valuation differential between the two resources does not appear

to be a consideration in the existing Orders or the proposed order. Future revenues to the federal government that would be realized by allowing increased access to oil and gas exploration vastly exceed those that would be generated by the potash industry. But it does not have to be an either or situation; both industries can co-exist if give the opportunity. The proposed order does not provide such an opportunity.

It is our understanding that the "Consensus Document" submitted to the Secretary by the Joint Industry Technical Committee ("JITC") in April 2012 sought to preserve the existing Orders and to add provisions for BLM approved drilling islands and development areas in those areas containing commercial potash so as to allow for oil and gas development while managing the impact on commercial potash resources. This proposal would have the effect of increasing oil and gas production from the Potash Area to provide valuable oil and gas resources to the United States. It is also our understanding that the proposed order varies significantly from the Consensus Document in a very pro-potash manner and is more restrictive than the existing Orders regarding the concurrent development of both resources. In fact, in Section 6.e.1 (page 5) of the proposed order it is written that "It is the stated policy of the Department of Interior to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area.".

While not limited to the following, specific problems that we see with the proposed order are as follows:

(1) There have been no public meetings or hearings held on the proposed order which represents a major federal action that significantly affects oil and gas producers, Communities, Counties and the State of New Mexico (as well as the people of the United States). We are also disturbed by the Secretary having only received limited input from a select group of oil and gas companies. We respectfully request that the Secretary not implement the proposed order without holding public meetings and/or hearings on the proposed order.

(2) It is our opinion that the proposed order fails to consider and weigh the long-term benefits of creating a potash preference against a policy of concurrent development of both resources from the DPA as required by the Federal Land Policy & Management Act.

(3) It appears to us that the proposed order would apply to all 497,000 acres of the DPA, as opposed to the existing Orders which effectively only protect areas known to contain commercially mineable potash. If this is indeed the case, the proposed order effectively constitutes a withdrawal of the entire DPA from concurrent development of both resources.

(4) Section 6.(c).(3). Requires that a bidder on a potash lease "must certify in writing that they have an identifiable, substantial and genuine interest in developing the potash resources...". This provision is clearly written to exclude oil and gas developers from acquiring potash leases in an attempt to access the lands for oil and gas resources. There is no similar protection granted, nor should there be, to parties acquiring oil and gas leases with the intent to limit access to lands for oil and gas development. Public lands should be leased to the high bidder in a competitive process. The potash industry should not be granted a special exemption that effectively gives them access to public lands at below market prices with no competitive process.

(5) The proposed order assumes the scientifically invalid and non-proven existence of a safety hazard associated with concurrent development. While the proposed order contains a provision requiring BLM decisions to be based on science, it is noteworthy that the Secretary is attempting the promulgation of this order before the critical science has been completed by the JITC. The proposed order is premature and is not scientifically based.

(6) As written in the proposed order, the improper mapping provisions as well as the unscientifically supportable definitions of resource mineralization in the proposed order essentially gives the potash industry the unilateral ability to preclude oil and gas drilling in the DPA. The definition of inferred resources in the proposed order allows such resources to be designated through the use of well logs, a process that is not scientifically supportable. Nonetheless, in view of the fact that the policy of the proposed order is to deny APDs in the entire DPA, and that the definition of Development Area seeks to limit the impact of oil and gas drilling on all potash mineralization (whether or not commercial, and whether or not the minerals will ever be mined), the potash lessees can use well logs to map inferred resources throughout the entire Potash Area and preclude drilling thereby.

(7) In a 2009 meeting with Deputy Secretary Ned Faqruahar, then Congressman Harry Teague and a group of 10 oil and gas industry representatives, Mr. Farquahar reportedly gave Representative Teague the following specific assurances:

- No rule change will be made by the Secretary before the scientific studies now under way are completed and finalized after peer review.

- Any change in policy will be based on defensible and validated science, including the gas migration and subsidence studies conducted for WIPP.

- That all stakeholders, including the State of NM, be given a fair and complete opportunity to be involved in any consideration of a change of rules.

- And, finally, that until that all occurs, the Secretary will allow the BLM to continue to manage the Secretarial Potash Area under the 1986 Order, and continue to allow the concurrent development and permitting of both potash and oil and gas development.

The proposed order is being proulgated with not one of these assurances having been met by the Secretary. We respectfully urge the Secretary to honor and keep all of Mr. Farquhar's promises to Representative Teague and the oil and gas representatives in 2009.

(8) The designation of Development Areas in Section 6.e.(2). is inadequately defined and could easily be used to the benefit of some oil and gas operators and the

detriment or exclusion of other oil and gas operators. Of specific concern is Section 6.e.(2).(c). in which the Authorized Officer reserves the right to approve any operator in the DPA and requires undefined financial assurances that could preclude many operators from gaining access to this huge reserve base and effectively providing access to a relatively exclusive group operators. As written, the proposed order will likely give a competitive advantage to a small group of companies & will likely exclude many small operators. Also of concern is the ambiguity associated with determining the size and shape of the Development Areas as well as the unbridled discretion granted to the Authorized Officer in the process of determining the Development Area. Additionally, we feel the definitions of "Development Area" and "Drilling Island," the mapping provisions, and the buffer zone provisions are inadequate and would request that these be better defined to allow for concurrent development of both resources.

In conclusion, rather than encouraging concurrent development of both resources, the proposed order is actually more restrictive to oil and gas development than are the existing Orders. The proposed order constitutes a retreat to outdated policies that fail to recognize advances in technology and engineering. It is our strong belief that the promulgation of the proposed order is premature and that the proposed order is not scientifically or technologically based or supportable. We respectfully urge the Secretary to withdraw the proposed order.

Respectfully Submitted,

MANZANO, LLC

Mike Hanagan, Managing Member