



HEYCO ENERGY GROUP, INC.

Harvey E. Yates Company ▪ Rosetta Energy Partners, L.P. ▪ HEYCO International, Inc.

Via Telefax and U.S. Mail

August 13, 2012

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

Attention: Tony Herrell,
Deputy State Director

Re: Comments to Draft Order - Oil, Gas and
Potash Leasing and Development Within
the Designated Potash Area of Eddy and
Lea Counties, New Mexico

Dear Mr. Herrell:

Thank you for the opportunity to comment on the Draft Order of the Oil, Gas and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico. Attached are the comments regarding the captioned, submitted on behalf of Harvey E. Yates Company and Nadel and Gussman HEYCO, LLC.

Very truly yours,


Arlene T. Rowland
Vice President

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SANTA FE, N.M.

**Comments on Behalf of Harvey E. Yates Company and Nadel and Gussman HEYCO, LLC
To the Draft Order of the Oil, Gas and Potash Leasing and Development Within the Designated
Potash Area of Eddy and Lea Counties, New Mexico**

1. The distance/time relationships (buffers) with which respective oil and gas and potash operations may safely operate have not been scientifically established as the in-process Sandia Labs study has not been completed, vetted and made part of the Draft Order.
2. Many oil and gas wells have been mined through as potash mines advanced into areas of past oil and gas production. There have been no incidents of gas leaking into a mine as a result of oil and gas wells, even in areas where mining has proceeded through existing wells. The O&G industry has drilling methods that can successfully and safely drill through voids such as abandoned or inactive potash and coal mines. The Draft Order ignores this fact.
3. Only stated requirement of the Draft Order is to require the BLM to *limit* the impact of oil and gas operations on *all* potash mineralization of any thickness and quality whatsoever; resource impact management language has been removed
4. Simplified instructions that allow BLM to approve more oil and gas APDs within the Potash Area have not been incorporated in the Draft Order.
5. Language contained in the Draft Order could essentially withdraw the entire Potash Area from oil and gas leasing, exploration and drilling, therefore the order is more akin to a withdrawal than a document providing for concurrent development.
6. Prior document and litigation history has been ignored and the language is inconsistent. The Draft Order must continue in the context of the documents which preceded its publication. Even items of consensus that were listed by the Joint Industry Technical Committee from the 1986 Order have been ignored.
7. The Draft Order could create undesired forced unitization at the discretion of a single unidentified BLM AO who is qualified and responsible for making any revisions to mapped potash boundaries (measured reserves, indicated resources, inferred resources, barren areas and unknown areas). This person should also be required to have sufficient O&G knowledge and subsurface O&G mapping experience to assemble possible O&G development areas both adjacent and within the potash enclaves which would efficiently drain the hydrocarbon accumulations within. Such Qualifications for the AO are not stated.
8. The Draft Order gives near absolute discretion to the BLM and its AO to deny any APD within the entire Potash Area for any reason, even if the APD would be in an area of barren, or non-commercial potash mineralization, or in an area where mineable reserves have already been extracted and the mine is inactive. Again, this is a defacto withdrawal.
9. Additional unnecessary terms such as inferred resources have been added and not properly defined in the Draft Order.
10. The Draft Order oversteps its jurisdiction with regard to non-federal lessees.
11. The Draft Order requires oil and gas lessees to affirmatively establish the absence of commercial potash in order to prevail upon the BLM to establish a Barren Area without access to all relevant data. The potash industry and the BLM have historically prevented federal oil and gas lessees from effectively challenging BLM decisions by maintaining as confidential nearly all potash information. This should stop. Documents from the long running Yates and Pogo litigation have established that BLM and the potash industry have often relied on faulty information, economics and science to maintain a stranglehold on drilling in the Potash Area. The Draft Order allows the BLM to maintain as secret all core data that will be utilized in establishing Barren Areas. Moreover, the provision does not require disclosure of economic thickness and grade information. Data exchange has been basically eliminated from the Draft Order.
12. Giving potash lessees a veto on every APD is defacto unlawful delegation of governmental authority.
13. The Draft Order does not require the BLM to establish Development Areas/Drilling Islands.
14. The Draft Order does not require the BLM to establish the Barren Areas within the Potash Area.

15. Draft Order exhibits a scientifically unsupportable bias against the oil and gas industry and oil and gas operations on federal lands within the designated area.
16. The BLM will not honor agreements between the potash and oil and gas lessee in the Draft Order, but will allow a joint recommendation for a single well site, which will only be approved at the discretion of the BLM. Any existing incentive to cooperate has been gutted by the Draft Order.
17. The Draft Order has avoided critical and necessary input from the State of New Mexico, Eddy and Lea Counties, and affected citizens and stakeholders, save and except a handpicked select group. Specifically, input from small independent O&G stakeholder companies has not been considered. These meetings were not open to the public and the meetings were not publicized.
18. The Draft Order creates a monopoly on who may bid on and hold potassium leases in direct conflict with the Mineral Leasing Act of 1920, leasing regulations and anti-trust laws.
19. The Draft Order policy statements and definitions completely remove any likelihood that an aggrieved oil and gas operator could successfully challenge the denial of any APD for any proposed location anywhere in the Potash Area.
20. In summary, the Draft Order does not foster important concurrent co-development of both Oil and Gas and Potash Resources.

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