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

Dear Mr. Secretary,

Re: Secretary's Draft Order Covering Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico

We want to thank you for the opportunity to provide our comments on the Secretary's Draft Order covering oil, gas and potash leasing and development within the designated potash area of Eddy and Lea Counties, New Mexico. Fasken Oil and Ranch, Ltd. is a privately held company with oil and gas drilling and production activities in Southeast New Mexico for over 60 years. Fasken is currently drilling in the Potash Area and has plans to continue development of its leases in the area in the immediate future. Fasken has long had an outstanding relationship with the BLM in Southeast New Mexico and has worked closely with both Intrepid and Mosaic potash companies in determining plans whereby both oil and gas interests and potash interests are preserved.

There are a number of issues that we would like to bring forth in our comments that we feel must be addressed for the continued advancement of concurrent development of oil and gas and potash minerals.

Fasken believes the Draft Order and any associated policy decisions concerning concurrent development of oil and gas and potash minerals should be based on sound science and fact. Both oil and gas and potash companies, as well as the BLM, have participated in two studies conducted by Sandia National Laboratories. The first study, "Evaluating the Use of Oil and Gas Well Logs for Potash Reserve Identification in Southeastern New Mexico," concluded that oil and gas well logs cannot be utilized for purposes of accurately determining the thickness and grade of potash mineralization in the Potash Area. Yet the Draft Order clearly allows the use of well logs as a tool to determine "inferred resources" of potash reserves. Independent scientific studies do not support the use of well logs to determine potash minerals. Therefore, this language must be removed from the Draft Order. The second study, "Geomechanical Analyses to Investigate Wellbore/Mine Interactions in the Potash Enclave of Southeastern New Mexico," was incomplete, did not study gas migration, and recognized that further studies were required in order to determine the safe distance between mining and oil and gas operations in the Potash Area. The Draft Order assumes oil and gas activities are problematic for development of potash minerals and will cause unsafe mining operations should a well bore and a mine be in close proximity. The work to determine such safe distances is ongoing and

has not been completed. Notwithstanding the fact that such work is ongoing and incomplete, and notwithstanding the fact that there is not a single instance of a safety hazard attributable to oil and gas drilling in the Potash Area, the Draft Order wrongfully and inaccurately assumes the existence of a safety hazard associated with concurrent operations for oil and gas and potash in the Potash Area.

The Draft Order states "it is the policy of the BLM to deny approval of most applications within the Designated Potash Area." This new policy completely re-writes years of work and decisions from BLM and through the courts, and indeed, potentially impacts valid, existing agreements between oil and gas companies and potash companies. The Draft Order withdraws all 497,000 acres of the Potash Area from oil and gas development unless an exception is granted by the BLM Authorized Officer, including applications to drill (APD) in known barren and unknown areas. The Authorized Officer would have complete discretion to deny any APD in the Potash Area without any justifiable reason and effectively preclude any further development of oil and gas resources. This is a significant departure from current accepted practice by BLM. Concurrent development of oil and gas and potash will not occur. This policy change has the potential to negate an oil and gas operator's valid, existing lease rights and therefore, could be interpreted as a taking.

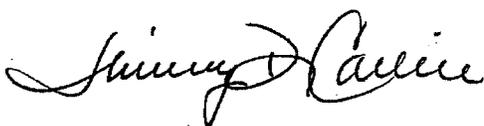
The Draft Order allows the Authorized Officer to establish Development Areas as a means to develop Federal and non-Federal lands. The size and shape of the Development Area is determined by the Authorized Officer, along with the location of one or more drilling islands. Unitization of leases and/or communitization agreements will have to occur to allow oil and gas operations under these Development Areas. Forcing companies to unitize or participate in a communitization agreement favors operators who have the largest acreage position in an area, regardless of their activity in the area or their technical expertise in recovering oil and gas reserves in the potential hydrocarbon bearing formations. This greatly penalizes operators who will be mandated to join a unit or communitization agreement and not be allowed to drill for reserves under their valid, existing leases. On-going development work by the smaller operator could be halted while the unit operator could completely stop operations in the Development Area in favor of a higher potential area in their company's inventory. An operator's valid, existing lease rights could be negated by this policy change.

Lastly, the development of the Draft Order only involved a handful of oil and gas companies on the Joint Committee that was formed. To allow a small group of companies hand-picked by the BLM to speak on behalf of our entire industry is concerning. Too many operators were left out of the discussions and decision making process. Small operators utilize industry associations as a way to be heard and provide comments in decision makings such as these. Associations such as the Permian Basin Petroleum Association, the Independent Petroleum Association of New Mexico and the New Mexico Oil and Gas Association should have been involved in the Joint Committee's work. Companies would have been aware of and involved in these discussions and decisions through these associations.

Fasken Oil and Ranch, Ltd. firmly believes that concurrent development of oil and gas and potash minerals can occur, and has been occurring over the past number of years as both oil and gas and potash industries have had a much more open dialogue concerning development opportunities. The Draft Order needs to be amended so that the progress made by industry and BLM is not abated.

Thank you again for the opportunity to provide comments on the proposed Draft Order.

Yours truly,



Jimmy D. Carlile
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