

Process for APD, Drilling Island, and Development Area Review in the DPA

I. APD Process

The BLM Carlsbad Field Office will review APDs for locations in the DPA in accordance with the Order and Onshore Oil and Gas Order No. 1.

Upon receipt of an APD for a location within the DPA, the application will be processed by the BLM Carlsbad Field Office in the following manner:

A. Adjudication will date stamp the application as received and route the APD to BLM staff for initial review. The posting and protest period guidelines for an APD are outlined in Onshore Oil and Gas Order No. 1.

B. Initial Review

Once the APD is routed, BLM staff will verify that proper notice was made by the applicant to all parties that may be affected by the APD according to Section 6.e.(7). As a guideline, all affected parties receiving notice for an APD should include:

1. Surface owner(s) affected by a planned surface disturbance contemplated in the application, plan or proposal;
2. All Potash operators and lessee(s) in the DPA; and
3. Owner(s) of oil and gas rights affected by the application, plan, or proposal, defined as lessee and operating rights owners within the leases penetrated by the wellbore and/or any lease that may be affected by a well that does not meet the state's minimum setback requirements.

BLM will not proceed with processing the APD until it receives verification that the applicant gave notice to the parties identified in Section I.B.1-3, above. The notice should be made by the applicant prior to the submission of the APD. The BLM will not authorize any action prior to the proper notice of all affected parties (Sec. 6.e.(7)). If the BLM finds that notice was not given to all affected parties, the BLM will notify the operator and await verification that all affected parties have been properly notified.

C. Once the BLM verifies that all affected parties have been notified, the BLM will review the APD in accordance with Section 6.e.(1). To be considered for approval, the APD surface location must be on:

1. a Drilling Island associated with a Development Area established under the Order or a Drilling Island established under a prior Order (6.e.(1)(a));
2. a Barren Area and the Authorized Officer determines that such operations will not adversely affect active or planned potash mining operations in the immediate vicinity of the proposed drill-site (6.e.(1)(b)); or

3. a Drilling Island, not covered by the first category (6.e.(1)(a)) above, or single well site established under the 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) (6.e.(1)(c)).

D. If the APD falls within one of the provisions identified in Section I.C.1-3, above, then it can be processed to the next level of review. BLM will generate a memo confirming receipt of verification that proper notification was made and that the APD meets one of the exceptions in 6.e.(1) and send it to Adjudication. Adjudication will route the APD to Resource Specialists, Fluid Minerals Specialists, and Potash Specialists for the technical review described in Onshore Oil and Gas Order No. 1. The APD will be processed as a normal APD.

1. If the surface location specified in the APD is proposed outside of the areas listed in Section 6.e.(1) of the Order, then the APD should be denied, unless the operator is willing to take one of the following actions:

(a) Move the proposed surface location to an area that falls within Section 6.e.(1)(a) – (c) of the Order. If the operator is willing to move the proposed surface location specified in the APD to a location covered under 6.e.(1), the APD can be revised and will be reviewed at the new location.

(b) Propose a new Drilling Island either at the existing surface location specified in the APD or a new location where the APD can be approved. This Drilling Island proposal may be outside an existing Development Area. If the operator chooses this option, the BLM will process this proposal as described below in this IM in Section II Drilling Island Process, and Section III Development Area Process.

2. Buffer zones as described in Section 6.e.(3) will apply to the proposed well. Please see Section IV, Oil and Gas Well Buffer Zones, below, for the definition of oil and gas wells for determining associated buffer zones. In accordance with Section 6.e.(3) of the Order, the BLM may adjust the buffer zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. When reviewing an APD, the BLM will refer to the latest available information provided by the potash companies and verified by the BLM as described in Sec. 6.d. of the Order.

3. A National Environmental Policy Act (NEPA) compliance document will be prepared. The NEPA analysis will document alternatives; alternatives may be generated in response to issues identified during internal and external scoping or by interested parties. The NEPA analysis will document the environmental effects of the proposed action and alternatives and the decision record will document the decision-making process.

4. A memo will be sent from the Potash Specialist to the Field Manager recommending approval or denial of the APD based on the criteria described above.
5. An APD within the DPA cannot be approved without the following items:
 - (a) Potash Memo recommending approval of the APD;
 - (b) A record that all affected parties have been properly notified;
 - (c) Completed NEPA analysis; and
 - (d) Completed technical reviews, as specified in Onshore Oil and Gas Order No. 1, from:
 - i. Resource Specialists,
 - ii. Fluid Minerals Specialists, and
 - iii. Potash Specialists.

II. Drilling Island Process

If a proposal for a Drilling Island affects more than one oil and gas operator, then all oil and gas operators should be encouraged to take part in the proposal. Typically, before any formal notification of a Drilling Island proposal is made to the BLM, proponents for a Drilling Island will notify a Natural Resource Specialist (NRS) of their interest in setting up a Drilling Island. The NRS will conduct a desk review of the proposed Drilling Island and/or perform an onsite inspection of the proposal to identify any site-specific resource concerns that may be encountered on the surface. The NRS will confer with a Potash Specialist to ensure that impacts to potash resources are identified.

A. Drilling Islands can be established by a proposal from the BLM or industry. Upon receipt of a proposal for a Drilling Island within the DPA, the proposal will be processed by the BLM Carlsbad Field Office in the following manner:

1. If the BLM proposes a Drilling Island, BLM staff will examine serial register page information for record title holder and operating rights information in order to determine the affected parties as defined below under Section II.B of this IM. Notification will be sent to the affected parties via U.S. mail with certified mail return receipts or other acceptable means of communication to ensure proper notification. A sample notification letter is attached (Attachment 3 – Sample Notification Letter). The BLM will review the proposal in accordance with Sec. 6.e.(2)(d). The proposal will be routed in accordance with Section II.E. of this IM.

2. If the BLM Carlsbad Field Office receives a proposal for a Drilling Island within the DPA from an outside party, Adjudication will date stamp the proposal as received and route it to BLM staff for initial review.

B. Initial Review

Once the Drilling Island proposal is routed, BLM will verify that the applicant gave proper notice of the Drilling Island proposal to all affected parties, according to Section 6.e.(7) of the Order. As a guideline, affected parties given notice of a Drilling Island proposal should include:

1. Surface owner(s) affected by the planned surface disturbance contemplated in the application, plan or proposal;
2. Grazing permit holders who may be affected by a planned surface disturbance contemplated in the application, plan or proposal. The BLM will make any grazing permit holder information available upon request;
3. All Potash operators and lessee(s) in the DPA; and
4. Owner(s) of oil and gas rights affected by the application, plan, or proposal, defined as lessees and operating rights owners within a distance of the proposed Drilling Island that can be accessed with present-day drilling capabilities. Present-day drilling capabilities in the Permian Basin have allowed wells to be drilled up to 2 miles. Notification of affected parties in the DPA within 2 miles from the boundary of the Drilling Island is required. As technology advances, this distance will be subject to revision as deemed necessary by the Authorized Officer. If the BLM or an outside party finds that oil or gas resources may be stranded, then notification shall include any potentially stranded oil and gas lease holders and operating rights owners, even if those leases are outside the 2-mile radius.

Notice should be made by the applicant prior to the submission of the Drilling Island proposal. The BLM will not authorize any action prior to the proper notification of all affected parties (Sec. 6.e.(7)). If the BLM office finds that notice was not given to all affected parties, the BLM will notify the operator and await verification that all affected parties have been properly notified. U.S. certified mail return receipts may be used as evidence of notice to affected parties.

Section 7.f. of the Order directs the BLM to develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to the Order. Therefore, the BLM will provide a 30-day time period during which any affected party can notify the BLM of their objections to or concurrence with the proposal via letter or email addressed to the Carlsbad Field Office Field Manager and copied to all affected parties. This 30-day period commences upon the date the affected party received the notification letter, as recorded on the certified mail return receipt associated with the notification letter.

The BLM will not establish a Drilling Island until all affected parties who express interest in or opposition to the proposal have been given the opportunity to meet with the BLM to discuss any concerns. Such meetings can take place individually with the BLM or collectively with other interested parties.

The BLM must address protests in a timely manner so as to enable timely actions pursuant to

the Order. The BLM will provide an opportunity for affected parties to schedule a meeting with the BLM to discuss any protest within 30 days of the BLM's receipt of a protest. Affected parties may request an extension of time to meet with the BLM. The BLM may grant an extension if the requesting party provides adequate justification for the extension. The BLM will apply a presumption that a protest has been waived if the protestant declines to seek an extension supported by an adequate justification or schedule a meeting with the BLM to discuss the protest within 30 days of the BLM's receipt of the protest. When the BLM receives a protest that presents an alternate proposal, the BLM will determine whether it is a reasonable alternative that should be evaluated during the NEPA process. The BLM also will review the Plan of Development and preliminary drilling locations from the proposal to ensure the Drilling Island positioning complies with the Order.

C. The Drilling Island proposal submission should contain the following:

1. A map of the location of the proposed action showing:
 - (a) Township, Range, Section,
 - (b) Surface ownership, and
 - (c) Lease ownership within a distance of the proposed Drilling Island that can be accessed with present-day drilling capabilities, labeled by operator and lease number.
2. Plan of downhole development (description and order of wells being drilled and at what depths, and a map showing the location and direction of each wellbore).
3. Surface use plan.
4. Preliminary plat showing the boundaries of the proposed Drilling Island.
5. For Drilling Island proposals affecting more than one operator, a certification by the proponents that an agreement is in place for those operators who will be drilling on the Drilling Island.
6. A list in table format of all affected parties as referenced above.
7. A narrative of the proposed action.

D. Pursuant to 6.e.(1), a Drilling Island can only be established such that any proposed drilling will occur:

- (a) within an associated Development Area (specifically reviewed under Section 6.e.(2)(d) of the Order) (Section 6.e.(1)(a));
- (b) within a Barren Area and the Authorized Officer determines that such operations will not adversely affect active or planned potash mining operations in the immediate vicinity of the proposed drill-site (Section 6.e.(1)(b));. or

(c) outside of a Development Area or Barren Area as described above, provided that the Drilling Island was jointly recommended to the Authorized Officer the oil and gas lessee(s) and the nearest potash lessee(s) (Section 6.e.(1)(c)).

E. A BLM interdisciplinary team will review the Drilling Island proposal in accordance with Section 6.e.(1) of the Order. Members of this team shall include:

1. Fluid Minerals Staff,
2. Solid Minerals Staff,
3. NRS Staff with or without preliminary onsite notes of the proposed action, and
4. Other resources staff as necessary.

F. A National Environmental Policy Act (NEPA) compliance document will be prepared. The NEPA analysis will document alternatives; alternatives may be generated in response to issues identified during internal and external scoping or by interested parties. The NEPA analysis will document the environmental effects of the proposed action and alternatives and the decision record will document the decision-making process.

G. At this point in the review process, the Drilling Island may be approved, denied, or modified. If modifications are made, then the BLM must grant the applicant an opportunity to provide notice to affected parties prior to approval. Notice should be made by the applicant prior to the submission of the Drilling Island proposal. The BLM will not authorize any action prior to the proper notification of all affected parties of the changes (Sec. 6.e.(7)). If the BLM office finds that notice was not given to all affected parties, the BLM will notify the applicant and await verification that all affected parties have been properly notified. U.S. certified mail return receipts may be used as evidence of notice to affected parties.

The BLM will provide a 30-day time period during which any affected party can notify the BLM of their objections to or concurrence with the changes to the proposal via letter or email addressed to the Carlsbad Field Office Field Manager and copied to all affected parties. This 30-day period commences upon the date the affected party received the notification letter, as recorded on the certified mail return receipt associated with the notification letter.

H. If the proposed Drilling Island is approved, then a Notice to Lessee (NTL) will be issued in the form of an approval letter according to Section 6.e.(2)(b) of the Order to all affected parties, as defined above in Section II.B.4. of this IM. The NTL letter will contain the location and boundary of the Drilling Island. The approval of a Drilling Island does not grant the operator permission to drill a well. Approval to drill on the Drilling Island may only be granted through an approved APD. The BLM will process any APDs associated with the Drilling Island proposal as provided in Section I, above.

III. Development Area Process

If a proposal for a Development Area affects more than one oil and gas operator, then the BLM should encourage all interested parties to make a joint proposal.

A. Development Areas can be established by a proposal from the BLM or industry, as specified below. Upon receipt of a proposal for a Development Area within the DPA, the proposal will be processed by the BLM Carlsbad Field Office in the following manner:

1. If the BLM proposes a Development Area, BLM staff will examine serial register page information for record title holder and operating rights information in order to determine the parties affected as defined below under Section III.B of this IM. Notification will be sent to the affected parties via certified return receipts or other acceptable means of communication to verify proper notification. A sample letter of notification is attached (Attachment 3 – Sample Notification Letter). The BLM will review the proposal in accordance with Sec. 6.e.(2)(d).
2. If the BLM Carlsbad Field Office receives a proposal for a Development Area within the DPA from an outside party, Adjudication will date stamp the proposal as received and route it to BLM staff for initial review.

B. Initial Review

Once the Development Area proposal is routed, BLM will verify that the applicant gave proper notice of the Development Area proposal to all affected parties, according to Section 6.e.(7). As a guideline, all affected parties receiving notice for a Development Area should include:

1. Surface owner(s) affected by a planned surface disturbance contemplated in the application, plan or proposal;
2. All Potash operators and lessee(s) in the DPA; and
3. All owners of oil and gas rights affected by the application, plan, or proposal, defined as lessees and operating rights owners within and adjacent to the proposed Development Area.

Notice should be made by the applicant prior to the submission of the Development Area proposal. The BLM will not authorize any action prior to the proper notification of all affected parties (Section 6.e.(7)). If the BLM finds that notice was not given to all affected parties, the BLM will notify the proponent and await verification that all affected parties have been properly notified. U.S. certified mail return receipts may be used as evidence of notice to affected parties.

Section 7.f. of the Order directs the BLM to develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to the Order. Therefore, the BLM will provide a 30-day time period during which any affected party may notify the BLM of their objections to or concurrence with the proposal via letter or email addressed to CFO Field Manager and copied to all affected parties. This 30-day period commences upon the date the affected party received the notification letter, as recorded on the certified mail return

receipt associated with the notification letter.

The BLM will not establish a Development Area until all affected parties who express interest in or opposition to the proposal have been given the opportunity to meet with the BLM to discuss any concerns. Such meetings can take place individually with the BLM or collectively with other interested parties.

The BLM must address protests in a timely manner so as to enable timely actions pursuant to the Order. The BLM will provide an opportunity for affected parties to schedule a meeting with the BLM to discuss any protest within 30 days of the BLM's receipt of a protest. Affected parties may request an extension of time to meet with the BLM. The BLM may grant an extension if the requesting party provides adequate justification for the extension. The BLM will apply a presumption that a protest has been waived if the protestant declines to seek an extension supported by an adequate justification or schedule a meeting with the BLM to discuss the protest within 30 days of the BLM's receipt of the protest. When the BLM receives a protest that presents an alternate proposal, the BLM will determine whether it is a reasonable alternative that should be evaluated during the NEPA process.

The BLM will also review the Plan of Development and preliminary drilling locations from the proposal to ensure the full development of leases.

C. The Development Area proposal submission should contain the following:

1. A map of the location of the Development Area showing:
 - (a) Township, Range, Section
 - (b) Surface ownership
 - (c) Lease ownership within a distance of the proposed Drilling Island that can be accessed with present-day drilling capabilities, labeled by operator and lease number.
2. Plan of downhole development (description and order of wells being drilled and at what depths, and a map showing the location and direction of each wellbore).
3. Map of the associated Drilling Island.
4. A list in table format of all affected parties as referenced above in this section.
5. A narrative of the proposed action.

The Development Area shall be accessible to oil and gas operators from a Drilling Island. If there is not a Drilling Island associated with the Development Area proposal, a new Drilling Island should be proposed at a location described in Section 6.e.(1) of the Order. The new Drilling Island proposal will be processed according to Section II of this IM. If no Drilling Islands exist within close proximity to the proposed Development Area, the BLM will work with the proponent(s) to find a suitable Drilling Island location. If a Drilling Island providing access to the Development Area for oil and gas operators cannot be established under the

provisions of the Order, the Development Area cannot be approved as proposed.

D. A BLM interdisciplinary team will review the Development Area proposal in accordance with Section 6.e.(2) of the Order. Members of this team shall include:

1. Fluid Minerals Staff
2. Solid Minerals Staff
3. NRS Staff
4. Other resources staff as necessary

E. A National Environmental Policy Act (NEPA) compliance document will be prepared. The NEPA analysis will document alternatives; alternatives may be generated in response to issues identified during internal and external scoping or by interested parties. The NEPA analysis will document the environmental effects of the proposed action and alternatives and the decision record will document the decision-making process.

F. At this point in the review process, the Drilling Island may be approved, denied, or modified. If modifications are made, then the BLM must grant the applicant an opportunity to provide notice to affected parties prior to approval. Notice should be made by the applicant prior to the submission of the Drilling Island proposal. The BLM will not authorize any action prior to the proper notification of all affected parties of the changes (Sec. 6.e.(7)). If the BLM office finds that notice was not given to all affected parties, the BLM will notify the applicant and await verification that all affected parties have been properly notified. U.S. certified mail return receipts may be used as evidence of notice to affected parties.

The BLM will provide a 30-day time period during which any affected party can notify the BLM of their objections to or concurrence with the changes to the proposal via letter or email addressed to the Carlsbad Field Office Field Manager and copied to all affected parties. This 30-day period commences upon the date the affected party received the notification letter, as recorded on the certified mail return receipt associated with the notification letter.

G. If the proposed Development Area is approved, then a Notice to Lessee (NTL) will be issued in the form of an approval letter in accordance with Section 6.e.(2)(b) of the Order, to all affected parties as defined above in Section III.B.3. of this IM. The NTL letter will contain the location and boundary of the Development Area and the associated Drilling Island. The approval of a Development Area or Drilling Island does not give the operator approval to drill. Approval to drill within a Development Area or Drilling Island may only be granted through an approved APD.

IV. Oil and Gas Well Buffer Zones

BLM staff should apply the following definitions within the Designated Potash Area:

Oil well: An oil well within the Designated Potash Area is a well with a total depth above the base of the 2nd Bone Spring Sandstone member of the Bone Spring Formation. The base of the 2nd Bone Spring Sandstone is defined as the marker encountered at a depth of 10585' in the Devon Energy – Todd 14K Federal #1, API No. 30-015-20298

Located in the NE/4 of SW/4 Section 14, T23S, R31E. An oil well shall be given a ¼-mile buffer, until such time as revised distances are adopted by the BLM or in an individual case when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety, as referenced in Section 6.e.(3) of the Order.

Gas well: A gas well within the Designated Potash Area is a well penetrating the base of the 2nd Bone Spring Sandstone member of the Bone Spring Formation. A gas well shall be given a ½-mile buffer, until such time as revised distances are adopted by the BLM or in an individual case when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety, as referenced in Section 6.e.(3) of the Order.

See Attachment 4 - Cross-section of the Bone Spring Formation in the DPA for a more descriptive geological marker.

At this time, the Authorized Officer may approve an oil well with a pilot hole drilled no deeper than 50 feet below the base of the 2nd Bone Spring Sandstone, as described above, for the purposes of geophysical logging. A pilot hole will provide more certainty that the wellbore will be drilled and completed in the proposed target zone. Such pilot holes may be authorized only on condition that they shall not be stimulated and must be plugged with cement isolating the wellbore from deeper zones, to the satisfaction of the Authorized Officer, prior to drilling the lateral.

V. Appeal Process

All decision documents issued by the BLM Carlsbad Field Office will notify applicants of their appeal rights.