

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

In the Matter of the Application of Snake River Oil )  
and Gas, LLC for Spacing Order Consisting of the )  
E ½ of the SE ¼ of Section 9, SW ¼ of Section 10, )  
N ½ of the N ½ of the NW ¼ of Section 15, and the )  
N ½ of the NE ¼ of the NE ¼ of Section 16, )  
Township 8 North, Range 5 West, Boise Meridian, )  
Payette County, Idaho )  
Snake River Oil and Gas, LLC, Applicant. )

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Docket No. CC-2021-OGR-01-002

**ORDER VACATING HEARING,  
ORDER SETTING HEARING  
TO DETERMINE “JUST AND  
REASONABLE” FACTORS,  
AND NOTICE OF HEARING  
AND SETTING FILING  
DEADLINES**

The Oil and Gas Division Administrator (“Administrator”) of the Idaho Department of Lands (“Department”) hereby: (1) vacates the June 10, 2021 evidentiary hearing; (2) sets a June 21, 2021 hearing to determine “just and reasonable” factors in the above-captioned spacing unit; and (3) gives notice of hearing and sets filing deadlines for the June 21, 2021 hearing. The June 21, 2021 hearing will take place at 1:00 PM (MT) at Fruitland City Hall, 200 S. Whitley Dr., Fruitland, Idaho, with a Zoom teleconference option also available for remote attendance.

**I. Background**

On April 26, 2021, Snake River Oil and Gas, LLC (“Snake River”) filed an application to integrate all uncommitted mineral interest owners in the spacing unit consisting of the E ½ of the SE ¼ of Section 9, SW ¼ of Section 10, N ½ of the N ½ of the NW ¼ of Section 15, and the N ½ of the NE ¼ of the NE ¼ of Section 16, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho. This spacing unit was established in the Administrator’s November 5, 2021 Order in Docket No. CC-2020-OGR-01-001.

The above-captioned proceeding is governed by the Oil and Gas Conservation Act (Chapter 3, title 47, Idaho Code); the Idaho Administrative Procedure Act (Chapter 52, title 67,

Idaho Code); Idaho Rules of Administrative Procedure of the Attorney General (IDAPA 04.11.01), to the extent that the Rules of Administrative Procedure are not superseded by Oil and Gas Conservation Act; and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho (IDAPA 20.07.02). A copy of the Rules of Administrative Procedure is available at the Idaho Department of Lands office located at 300 N. 6th Street, Suite 103, Boise, Idaho, and at the Office of Administrative Rules Coordinator's website, accessible at <http://adminrules.idaho.gov>.

## **II. The June 10, 2021 Evidentiary Hearing is Vacated**

The Administrator is authorized and required to conduct a hearing on this integration application. Idaho Code § 47-328(3). That includes the authority to conduct all prehearing procedures and to continue a hearing for good cause. *Id.* The Administrator sets regular hearing dates and applications shall be filed at least forty-five (45) days before these hearing dates. *Id.* The Administrator's next regular hearing date is June 10, 2021, and the 45 day deadline to submit applications for that hearing date was April 26, 2021.

Pursuant to Idaho Code § 47-328(3)(d), the Administrator for good cause vacates the June 10, 2021 evidentiary hearing because the Administrator must, prior to the evidentiary hearing, make a decision on the factors to consider in determining whether an integration order's terms fulfill Idaho Code § 47-320(1)'s "just and reasonable" requirement. This is required to comply with the United States District Court for the District of Idaho's order to "hold a new hearing that complies with due process by explaining the factors that will be considered when determining whether the terms and conditions of an integration order are 'just and reasonable.'" *Citizens Allied for Integrity & Accountability, Inc. v. Schultz*, 335 F. Supp. 3d 1216 (D. Idaho 2018). The Oil and Gas Conservation Commission ("Commission") decided at its April 23, 2019 meeting that prior to holding an evidentiary hearing on the integration application's merits, the Administrator will

hold a hearing and issue a ruling identifying the factors he will consider in determining whether an integration order's terms fulfill Idaho Code § 47-320(1)'s requirement that "each integration order shall be upon terms and conditions that are just and reasonable."

**III. The Administrator sets a hearing to determine the factors he will use to determine whether an integration order's terms are "just and reasonable."**

To ensure the Administrator affords due process consistent with the court's order in *Citizens Allied for Integrity & Accountability, Inc. v. Schultz*, the parties should be given the opportunity to present argument as to what factors the Administrator should consider when determining whether the terms and conditions of an integration order are "just and reasonable" as articulated in Idaho Code § 47-320(1). In addition to presenting argument at hearing, parties may submit briefs and supporting affidavits, but no testimony will be taken at hearing. In order for such a hearing to be productively focused on this issue, the Administrator issues this order preliminarily identifying the matters that the parties should address at the hearing.

At this hearing the Administrator will not consider the substantive question of whether terms and conditions proposed are in fact "just and reasonable." Instead, the Administrator will consider and issue a decision determining the factors that fall within the meaning of "just and reasonable" as to the above-captioned spacing unit. After the Administrator issues a ruling identifying such factors, he will schedule an evidentiary hearing on the application and give notice of that hearing to all uncommitted owners.

In determining the factors necessary for an order to be just and reasonable, the Administrator intends to apply fundamental principles that cabin the Commission's discretion:

- First, Idaho Code § 67-5279 provides that an administrative order cannot violate constitutional or statutory provisions. Therefore, parties are asked to demonstrate how their proposed "just and reasonable" factors comply with existing statutes.

- Second, Idaho Code § 67-5279 provides that an administrative order cannot be arbitrary or capricious. In order to avoid a finding of arbitrariness, an agency is bound by the rules that it has promulgated. *Vitarelli v. Seatori*, 359 U.S. 535, 540 (1959). Therefore, parties are asked to demonstrate that any proposed “just and reasonable” factors comply with existing Commission rules.
- Third, Idaho Code § 67-5279 provides that the terms of an administrative order cannot be “in excess of the statutory authority of the agency.” In other words, if a subject is already addressed by an existing statute, the Commission may be prohibited or restricted in its ability to impose requirements in addition to those imposed by the statute. *See In re Truman*, No. 36082, 2010 WL 9585673, at \*2 (Idaho Ct. App. Jan. 27, 2010) (mandatory language in statute left “little room for an unfettered exercise of discretion”). Nor can an integration order impose requirements if the Legislature has vested another agency with exclusive jurisdiction over the subject matter. Thus, parties are asked to demonstrate that any proposed “just and reasonable” factors are within the Commission’s statutory authority and discretion and do not impose burdens, conditions, or restrictions in excess of or inconsistent with existing statutes in the Oil and Gas Conservation Act, title 47, chapter, 3, Idaho Code.

Further, parties are asked to clearly identify the precedent they rely on for any assertion that a particular factor is necessary to determine whether an integration order is just and reasonable. This may include citing whether the factor is used to determine compliance with a “just and reasonable” requirement in other state integration or forced-pooling proceedings. Simply asserting that a term is just and reasonable without identifying precedent supporting the assertion will be of lesser value to the Administrator in his decision.

**IV. The Administrator gives Notice of a June 21, 2021 Hearing on Determining “Just and Reasonable Factors” and Setting Filing Deadlines**

Based on the foregoing, NOTICE IS HERBY GIVEN that on Monday, **June 21, 2021** at **1:00 PM (MT)** the Administrator will hold a hearing on the specific issue of the factors he will consider when he determines whether the terms and conditions of an integration order in the above-captioned spacing unit are “just and reasonable.” This hearing will only address the single issue of the factors used to determine just and reasonable in this spacing unit and should follow the guidance articulated in Section III of this order. The hearing will be held at Fruitland City Hall, 200 S. Whitley Dr., Fruitland, Idaho, with a Zoom teleconference option also available for remote attendance.

The Applicant, the Department, and any uncommitted owner in the above-captioned spacing unit may file briefs and any supporting affidavits on this topic. Idaho Code § 47-328(3). Those briefs must be filed with the Department by 5pm on the dates listed below.

May 28, 2021	Deadline to file opening briefs discussing the factors the Administrator should consider to determine whether terms of an integration order are just and reasonable.
June 11, 2021	Deadline to file response briefs
June 16, 2021	Deadline to file reply briefs
June 21, 2021	Hearing on Factors the Administrator will use to Determine Just and Reasonable Terms

Uncommitted owners may also choose to file their initial objections or responses addressing the merits of the integration application during this time period, but will continue to have the opportunity to file such responses and objections up until fourteen days before the evidentiary hearing, which has not been scheduled and will be separately noticed in the future.

Pursuant to Idaho Code § 67-5242(3)(c), the Administrator will also provide an opportunity for interested persons to provide public comment at the June 21, 2021 hearing. *See* IDAPA

04.11.01.355. The Administrator may set time limits for public comment if necessary. In addition, members of the public may file written comments with the Department before **5:00 PM (MT) on June 11, 2021**. Filing written comments is not required for a person to offer public comment at the hearing.

The number of participants present in person may be limited to comply with any COVID-19 physical distancing requirements. As a result, in order to ensure there is adequate space available to those appearing in person and login information available to those appearing via Zoom, persons must sign up in advance. Those who intend to participate in person or via Zoom should contact Kourtney Romine at [kromine@idl.idaho.gov](mailto:kromine@idl.idaho.gov) by 5:00 PM (MT) on June 17, 2021 to RSVP for the in-person arguments or comments or to obtain the login information for Zoom participation. Please note that argument and comments via Zoom and in person will be given the same weight and consideration.

All briefs, responses, objections, and comments filed with the Department must be sent to:

Mail: Idaho Department of Lands  
Attn: Mick Thomas  
300 N. 6<sup>th</sup> Street, Suite 103  
P.O. Box 83720  
Boise, ID 83720

e-mail: [kromine@idl.idaho.gov](mailto:kromine@idl.idaho.gov)

The hearing location meets the accessibility requirements of the Americans with Disabilities Act (“ADA”), in accordance with IDAPA 04.11.01.551. If a person requires assistance of the kind the agency is required to provide under the ADA in order to participate in or understand the hearing, the agency will supply the assistance upon request. Please submit any requests to IDL by 5:00 PM (MT) on June 14, 2021. Inquiries about scheduling, facilities, etc. should be directed

to Kourtney Romine, Workflow Coordinator, Idaho Department of Lands, 300 N. 6<sup>th</sup> Street, Suite 103, P.O. Box 83720, Boise, ID 83720; e-mail: kromine@idl.idaho.gov; phone: (208) 334-0283.

### **ORDER**

Based on the foregoing, it is HEREBY ORDERED that:

- The June 10, 2021 evidentiary hearing is vacated and will be rescheduled in the future.
- The Administrator sets a June 21, 2021 hearing on the specific issue of what factors the Administrator will consider when he determines whether the terms and conditions of an integration order are “just and reasonable.”
- Opening Briefs must be filed with the Department by 5 PM (MT) on May 28, 2021.
- Response briefs must be filed with the Department by 5 PM (MT) on June 11, 2021.
- Reply briefs must be filed with the Department by 5 PM (MT) on June 16, 2021.
- Written public comments must be filed with the Department by 5 PM (MT) on June 11, 2021.

Dated this 5th day of May 2021.



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Richard “Mick” Thomas

Oil and Gas Division Administrator  
Idaho Department of Lands

## CERTIFICATE OF MAILING

I hereby certify that on this 5th day of May 2021. I caused to be served a true and correct copy of the foregoing by regular mail unless indicated otherwise addressed to the following and emailed courtesy copies as shown:

Snake River Oil & Gas LLC  
c/o Michael Christian  
Smith + Malek  
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8680 Shannon Rd  
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Susan Coffman  
8640 Shannon Rd  
Payette, ID 83661

Jimmie L. & Norma J. Greene  
8512 Shannon Rd  
Payette, ID 83661

Lisa Herres  
8590 Shannon Rd.  
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Jimmie R. & Judy A. Hicks  
Family Trust  
1540 NW 6th Ave  
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Alan R. & Glenda D. Grace  
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Payette, ID 83661

City of Fruitland  
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Northview Ranch HOA PO Box 393 Fruitland, ID 83619	Tiffany Smith & Scott Horrace 2730 Dogwood Ave Fruitland, ID 83619	Todd Baker 1581 Tamarack St Fruitland, ID 83619
Casey & Brandi Mordhorst 2812 Spruce Dr Fruitland, ID 83619	Michael J. & Rashelle L. Boyer 2816 Spruce Dr Fruitland, ID 83619	Cecilia M. Gladson & Dennis J. Harmon 2822 Spruce Dr Fruitland, ID 83619
Richard & JaNel Wood 1580 Tamarack St Fruitland, ID 83619	Mary E. Smith 1480 Tamarack St Fruitland, ID 83619	Hugh A. & Barbara A. Bullock 2819 Spruce Dr Fruitland, ID 83619
Robert V. Maxwell 1469 Ponderosa St Fruitland, ID 83619	Robert L. & Bonnie McGehee 1465 Ponderosa St Fruitland, ID 83619	John & Janell Rochester 1471 Ponderosa St Fruitland, ID 83619
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Chance & Mariam Poe 2859 Cedar Dr Fruitland, ID 83619	Kelly Glenn & Thaddeus Singer 1380 Tamarack St Fruitland, ID 83619	Charles B. & Keila D. Mass 2855 Cedar Dr Fruitland, ID 83619
Cheryl A. & James M. Flannery Jr. 2830 Birch Rd Fruitland, ID 83619	Shane J. & Meredith M. Hickman 2751 Cedar Dr Fruitland, ID 83619	Zelda S. & Charles E. Jr Helfrich 2832 Birch Rd Fruitland, ID 83619
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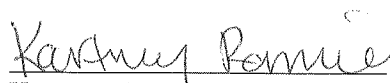
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