

From: [Mike Christian](#)
To: [J. Kahle Becker](#); [Amy Hardee](#); [Kourtney Romine](#); [Mick Thomas](#); [External - Kristina Fugate](#); [JJ Winters](#); [James Thum](#)
Cc: richard@weiserbrown.email
Subject: RE: Filings for Docket No. CC-2023-OGR-01 -001
Date: Friday, February 17, 2023 04:46:19 PM

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Dear Administrator:

I am filing this response to the Motion for Continuance filed by certain objecting mineral owners in an email because of the shortness of time. I only received the motion at 2:34 p.m. today. I apologize for the informality.

Because of the shortness of time and because the motion raises so many issues without any factual support, it is difficult to respond. However, aside from the objecting owners' new counsel's late arrival on the scene, the request for a continuance appears to be based on the following:

1. The fact that some of the objecting owners' property is "riparian" and "along the Payette River";
2. The fact that a gathering line owned by Northwest Gas Pipeline (not the Applicant here) runs across some of the objecting owners' property, necessarily as a result of those owners entering into a right of way agreement with NWGP to consent to the placement of the pipeline in exchange for compensation;
3. The fact that some of the objecting owners say they have "observed flaring" from unidentified wells at some unidentified time in the past;
4. The fact that another owner in the unit who is not represented by the objecting owners' counsel indicated in a written comment that she cannot attend the March 14 hearing in person or via Zoom, even though the Administrator's order setting the hearing clearly states that individuals may participate by phone, and the other owner lists her phone number in her written comment, making it clear she has a phone; and
5. The fact that the objecting owners cannot determine whether the rules at IDAPA 20.07.01 and IDAPA 20.07.02 have been reauthorized (the former have not been operative or used for years, and the latter were reauthorized by the legislature in March 2022, as is noted in the published rules).

The objecting owners vaguely assert that "serious issues" are raised by the first three facts that must be considered in commenting on what factors should be considered in establishing just and reasonable terms of integration, although they offer nothing beyond speculation about those issues. Based on all of this they assert that good cause exists to vacate all deadlines and continue consideration of the application, in its entirety, indefinitely.

The motion does not establish good cause to delay the proceedings. The Applicant will address each of these points in order.

1. The application states on its face that the proposed drill site is located on property in the southwest quarter of Section 24, over a half mile from the Payette River. No operations will take place on the objecting owners' property. Integration deals generally with economic terms. Issues relating to water quality are already covered in other sources of law (which the objecting owners themselves point out by their citation to IDAPA 20.07.02.001.03, which requires operators to comply with those laws and rules).
2. Pipeline operations have nothing to do with the integration process. As the objecting owners acknowledge in their motion, the gathering pipeline in question belongs to and is operated by a different entity, not the Applicant here. As between the objecting owners whose property the pipeline crosses and NWGP, issues relating to pipeline operations are a matter of contract between them based on their right of way agreement.

3. While the objecting owners' assertions regarding flaring are nearly fact-free, flaring is a well-known safety and testing mechanism in well drilling and operations. Pursuant to IDAPA 20.07.02.413, operators may flare only for a short period of time before paying royalties to affected mineral owners, and are prohibited from flaring for longer than 60 days after well completion. In other words, this subject is already covered in applicable rules. The implicit suggestion in the objecting owners' argument that the operator is committing waste solely because flaring occurs is simply misinformed. Moreover, operators are already subject to specific production reporting and royalty reporting, payment, and accounting requirements. See Idaho Code §§ 47-324, -331, -332, -333.

4. As noted above, Ms. Miller, who is not represented by the objecting owners' counsel, may participate in the March 14 hearing by phone.

5. The rules in IDAPA 20.07.02 were reauthorized on March 18, 2022, as is indicated in the rules available at <https://adminrules.idaho.gov/rules/current/20/200702.pdf>. See https://adminrules.idaho.gov/history_notes/2022%20History%20Notes.pdf, at page 11. The sine die report discussed in the objecting owners' motion specifically mentions only those rules that were *rejected*. The rules at 20.07.01 have not been operative for many years, and contested cases in the Department and before the Commission have been conducted under the AG's rules for procedure, IDAPA 04.11.01, for several years.

Finally, the concerns raised by the objecting owners are already covered in the factors that have been used by the Administrator for the previous three integration proceedings, and which the Applicant has proposed be used here, e.g., are any proposed terms, including those addressed at drilling, equipping, and operating the well, consistent with the Oil and Gas Act and necessary given site-specific conditions?

No good cause exists to continue the briefing schedule or the March 14 hearing. In the event the Administrator concludes that the vague and speculative assertions in the objecting owners' request sufficiently raise good cause, then at most there need only be a slight compression of the briefing schedule. The Administrator could order opening briefs on the just and reasonable issues to be due March 1, and retain the remaining briefing schedule and hearing date. No further delay is warranted.

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From: J. Kahle Becker <kahle@kahlebeckerlaw.com>

Sent: Friday, February 17, 2023 2:34 PM

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Subject: Filings for Docket No. CC-2023-OGR-O1 -001

Dear Hearing Officer and the Idaho Department of Lands,

Attached for filing in this matter is my Notice of Appearance as well as a Motion to Continue. In light of the fact I was just retained and the tight filing deadlines which are in place, I wanted to get these to you as soon as possible. If there is anything else I need to do in order to ensure these filings are part of the record in this matter, please let me know. I look forward to participating in this hearing.

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