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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of Snake River Oil and Gas, LLC, for an Order Establishing a Spacing Unit Consisting of the SE ¼ of Section 15, the E ½ of the SW ¼ of Section 15, and the NE ¼ of Section 22, Township 8 North, Range 5 West, Payette County, Idaho.

AGENCY Case No. CC-2025-OGR-01-002

OAH Case No. 25-320-OG-01

IDAHO DEPARTMENT OF LANDS’ PREHEARING STATEMENT

The Idaho Department of Lands (“IDL”), by and through its counsel of record, Kayleen Richter, submits the following Prehearing Statement in accordance with the *Scheduling Order* dated June 18, 2025. This matter is scheduled for a contested case hearing on July 10, 2025, at 1:00 p.m. MDT located at the Fruitland City Hall Council Chamber. IDL concurrently submits its disclosure of witnesses, its exhibit list, and its proposed exhibits for hearing.

I. LEGAL BACKGROUND

A. Procedural requirements for an application to establish a spacing unit.

Idaho Code § 47-328(3) provides procedural requirements for an application to establish a spacing unit including to whom and how the applicant must provide notice of the application and who may raise objections or responses to the application. An applicant must, within 7 days of filing the application, “send a copy of the application and supporting documents to all known and located uncommitted mineral interest owners, all working interest owners within the proposed spacing

unit, and the respective city or county where the proposed unit is located.” Idaho Code § 47-328(3)(b). Such notice must also include the prospective hearing date on the application. *Id.*

If any uncommitted or working interest owners cannot be located, “an applicant shall publish notice of any application for an order, notice of hearing and response deadline once in a newspaper of general circulation in the county in which the affected property is located and request the department publish notice on its website within seven (7) days of filing of the application.” *Id.*

Finally, once an application has been filed, “[o]nly an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file at least fourteen (14) days before the hearing date provided in the notice.” *Id.* An owner is defined as “the person who has the right to drill into and produce from a pool and to appropriate the oil and gas that he produces therefrom[.]” Idaho Code § 47-310(27). Uncommitted owner is further defined as “an owner who is not leased or otherwise contractually obligated to the operator.” Idaho Code § 47-310(35).

B. Substantive requirements for establishing a spacing unit.

Pursuant to the Idaho Oil and Gas Conservation Act (“the Act”), the Idaho Oil and Gas Conservation Commission (“OGCC”), through IDL as its administrative instrumentality, has the authority and duty to “regulate the exploration for and production of oil and gas, to prevent waste of oil and gas, [and] to protect correlative rights.” Idaho Code §§ 47-314(6), 47-315(1). Prevention of waste is paramount under the Act. Idaho Code § 47-315(1). As it relates to gas production, waste is defined as “production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil and gas that might ultimately be produced[.]” Idaho Code § 47-310(36)(a). A correlative right is defined as “the opportunity of each owner in a pool to produce his just and equitable share of oil and gas in a pool without waste.” Idaho Code § 47-310(8).

Along with this general authority, the OGCC has the specific authority to regulate the spacing and location of oil and gas wells. Idaho Code § 47-315(6)(c). Establishing spacing units is an integral component of oil and gas regulation, as it is used to prevent the drilling of unnecessary

wells, assist in the prevention of waste, and protect correlative rights. Idaho Code § 47-317(1) (listing the bases for which a spacing unit or units may be established). Spacing curbs economic waste by preventing the expense of drilling unnecessary wells and curbs physical waste by preventing adverse changes to reservoir dynamics caused by excessive rates of withdrawal from multiple wells. WILLIAMS & MEYERS, *MANUAL OF OIL & GAS TERMS* 1135–37 (15th ed. 2012); *see also* Robert E. Hardwicke, *Oil Well Spacing Regulations and Protection of Property Rights in Texas*, 31 Tex. L. Rev. 99, 111 (1952); Special Study Comm. & Legal Advisory Comm. on Well Spacing & Allocation of Prod., American Petroleum Institute, *Progress Report on Standards of Allocation of Oil Production Within Pools and Among Pools* 27–30 (1942).

Spacing units are defined in reference to subsurface reserves of hydrocarbons referred to as “pools.” *See* Idaho Code § 47-317(1)–(2). A pool is defined as “an underground reservoir containing a common accumulation of oil or gas, or both.” Idaho Code § 47-310(29). Additionally, “each zone of a structure that is completely separated from any other zone in the same structure is a pool.” *Id.* A spacing unit, in turn, must be “the area that can efficiently and economically be drained by one (1) well for the orderly development of the pool.” Idaho Code § 47-317(2). In the absence of a spacing order to the contrary, the statutory default size for a gas well spacing unit is 640 acres. Idaho Code § 47-317(3)(b). However, the statutory defaults may be deviated from if geologic evidence establishes an alternative size for a spacing unit. In that case, an order establishing a spacing unit must “specify the location, size, and shape of the unit, which, in the opinion of the department, shall result in the efficient and economical development of the pool as a whole.” Idaho Code § 47-317(2). The location, size, and shape of a spacing unit must be described using the public land survey system. *Id.*

To summarize and paraphrase, an appropriate spacing unit should be an area of land that, based on the evidence presented, will be sufficient for one well to efficiently and economically drain hydrocarbons from an identifiable underground pool of oil and/or gas. As one oil and gas law treatise describes it, the process of establishing a spacing unit “relates solely to physical concerns about efficient production; it is a determination that is based primarily on engineering

and geological facts[.]” KRAMER & MARTIN, THE LAW OF POOLING AND UNITIZATION, § 5.03 (3d ed. 2016).

II. FACTUAL BACKGROUND

On May 22, 2025, Snake River Oil and Gas, LLC (“Snake River”) applied to IDL for an order establishing a spacing unit consisting of the SE ¼ of Section 15, the E ½ of the SW ¼ of Section 15, and the NE ¼ of Section 22, Township 8 North, Range 5 West, Payette County, Idaho. On May 30, 2025, IDL responded to Snake River’s application for spacing. IDL-02. In IDL’s response, IDL requested Snake River provide additional technical information (listed as No. 2(a)–(j)), which IDL needed to evaluate the request for spacing. *Id.* The Applicant replied to IDL’s request on July 2, 2025, and produced the complete list of technical information requested.

On June 10, 2025, Snake River submitted certified mailing receipts to IDL showing that it sent a copy of the application materials and notice of prospective hearing date to uncommitted owners within the proposed spacing unit. A comparison of the list of uncommitted owners and the certified mailing receipts indicates that IDL does not have a complete copy of the certified mailing receipts, which IDL and Snake River have discussed. At hearing, Snake River should provide evidence that these owners either received adequate notice of the application or were otherwise not entitled to receive notice of the application.

Along with the certified mailing receipts, Snake River also submitted an Affidavit of Publication from the Idaho Press-Tribune showing that it caused notice of the application, hearing, and response deadline to be published for any uncommitted owners who could not be located.¹ Upon receipt of Snake River’s application, IDL published notice of the application on its website: <https://ogcc.idaho.gov/administrative-hearings/>.

Snake River’s application identifies a prospective gas pool consisting of “Sands A and B.” App. at 2. Snake River has submitted geologic evidence showing the probable existence of hydrocarbons and the likely extent of the productive limits of the pool, including seismic amplitude

¹ The Idaho Press-Tribune is a newspaper of general circulation in Payette County. *See* Idaho Code § 47-328(3)(b).

maps of the area and seismic profiles for the proposed spacing unit. Declaration of David M. Smith ¶¶ 21–44 [hereinafter “Smith Decl.”]; Exs. G2–G4. Snake River also included geologic evidence regarding existing Sand B gas productive wells in Harmon Field (Fallon #1-10, Barlow #2-14) for comparison, “as an example of how we can determine the presence of gas bearing sands and map their distribution spatially.” Smith Decl. ¶¶ 20; Exs. G1–G2. Based on this data, Snake River proposes a non-standard 400-acre spacing unit as it “efficiently covers the presumed gas bearing areas of Sand B[.]” Smith Decl. ¶¶ 42; Ex. G4.3.

Accordingly, Snake River contends that a “standard spacing unit... would not accomplish the orderly development of the pool or describe the area that can be economically or efficiently drained by one well, as large areas of either unit would be outside the drainage area of an anticipated well targeting Sands A and B.” App. at 2. Snake River asserts that “[c]ompensation to owners of those areas would injure the correlative rights of owners of the minerals within the drainage area of the well.” *Id.* Thus, Snake River concludes that “development according to standard spacing would result in inefficient drainage, could diminish the quantity of hydrocarbons ultimately produced from Sands A and B” and cause waste. App. at 2–3.

One owner formally objected to the spacing application. On June 26, 2025, Charlene Gomez, an uncommitted mineral interest owner in the proposed unit, filed an objection by contacting the Office of Administrative Hearings (“OAH”) via email. IDL-03. OAH then forwarded Ms. Gomez’s objection to the parties and the Hearing Officer. *Id.* In her objection, Ms. Gomez expressed concern “over the potential risks of drilling near [her] home and through [her] drinking water aquifer” but stated that she did “not have enough information to make an informed decision about whether to object to the proposed spacing unit.” *Id.* In addition, Ms. Gomez copied a “Mike Gomez” in the objection she submitted to OAH. *Id.* According to Snake River’s application, Michael A Gomez & Charlene D. Gomez are mineral owners of tract number 328, which is located at the extreme northwest corner of the proposed unit. App Ex. A-3, Ex. B (App. page 47 of 62). Mr. Gomez contacted James Thum, IDL’s Oil & Gas Program Manager, to express

concerns regarding water contamination and the appropriateness of a well within the City of Fruitland; however, Mr. Gomez did not have a specific objection related to the spacing request.

On June 17, 2025, the parties attended a scheduling conference and agreed to a hearing date as well as deadlines for prehearing disclosures and witness and exhibit lists.² The Hearing Officer issued a *Scheduling Order* on June 18, 2025, setting a prehearing conference date of July 7, 2025, and a hearing and public comment date of July 10, 2025.

III. STATEMENT OF POSITION

Unless relevant conflicting evidence or testimony is presented at the evidentiary hearing, IDL's position is that Snake River's application should be granted—assuming Snake River can show compliance with the statutory notice requirements. The application, the attached declarations and exhibits, and the additional technical information produced in response to IDL's request present sufficient evidence to conclude that the proposed spacing unit is (i) underlaid by a discrete gas pool that will (ii) be efficiently and economically drained by the proposed well targeting Sands A and B.

A. The geologic evidence suggests the existence of a discrete hydrocarbon pool consisting of target Sands A and B.

The information provided by Snake River presents a reasonable geologic interpretation of the presence and extent of the possible hydrocarbon accumulation within the proposed unit. The geologic interpretation is also consistent with known hydrocarbon accumulations in Harmon Field and its productive hydrocarbon pools. For instance, target Sand B is found productive to the north of the proposed new spacing unit in the Fallon #1-10 well (USWN 11-075-20032) and to the east of the proposed new spacing unit in the Barlow #2-14 well (USWN 11-075-20036). Sand A was encountered in the Fallon #1-10 and “is a thin sand found productive (by log) ... just above Sand B.” Smith Decl. ¶ 44.

² Note that Ms. Gomez did not object to the application until after the scheduling conference. Accordingly, at the scheduling conference she was not yet a party and did not appear on the *Scheduling Order*'s Certificate of Service. However, Ms. Gomez became a party once she lodged a timely objection, which service of these prehearing materials reflects.

B. The geologic evidence suggests that the productive limits of the pool are within the boundaries of the proposed spacing unit.

The seismic amplitude map included in Snake River's Application demonstrates a probable areal extent of the productive limits of Sand B. Smith Decl., Exs. 2.3, 3.2, 4.3. Sand A has only been encountered in one well, the Fallon #1-10. Snake River provided the well log interval with estimated BHT and BHP values for this sand in Exhibit SR-18, which was included in Snake River's response to IDL's request for additional technical information. Stratigraphically Sand A is approximately 100 to 110 vertical feet above Sand B in the Fallon #1-10. *See* Smith Decl., ¶ 44. Mapped structurally, Sand A would appear nearly identical to the Sand B map. *Id.* It is a much thinner sand, similar to the appearance of Sand B in the Barlow #2-14 well. Based on the evidence of Sands A and B provided, it is likely that the productive limits of Sands A and B lay within the boundaries of the proposed 400-acre spacing unit. However, at hearing Snake River should clarify the productive limits of Sand A as IDL would estimate that they are likely smaller than Sand B.

IV. CONCLUSION

Snake River's application should be granted. The geologic evidence presented establishes a likely pool of hydrocarbons in the Sand A and Sand B formations. The probable productive limits of those formations are substantially similar and are entirely within the proposed 400-acre spacing unit consisting of the SE ¼ of Section 15, the E ½ of the SW ¼ of Section 15, and the NE ¼ of Section 22, Township 8 North, Range 5 West, Payette County, Idaho. A single well located in this proposed spacing unit would efficiently and economically drain hydrocarbons from the identified pool.

DATED this 3rd day of July 2025.

IDAHO DEPARTMENT OF LANDS



Kayleen R. Richter

Attorney for Idaho Department of Lands

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of July 2025, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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