

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION
STATE OF IDAHO**

In the Matter of Application of AM Idaho,)	Docket No. CC-2019-OGR-01-002
LLC, for Spacing Order and Integration)	
of Unleased Mineral Interest Owners in the)	REPLY BRIEF OF
SW ¼ Section 10, Township 8 North,)	APPLICANT AM IDAHO, LLC
Range 5 West, Boise Meridian,)	
Payette County, Idaho)	
AM Idaho, LLC, Applicant.)	
)	
)	

Applicant AM Idaho, LLC (“AMI”), submits its *Reply Brief* pursuant to the *Order Vacating Hearing, Order Setting Hearing to Determine “Just and Reasonable” Factors, and Notice of Hearing and Setting Filing Deadlines*, issued July 10, 2019, by the Administrator (the “Order”).

The responding mineral owners’ response brief misinterprets the decision in the case of *CAIA v. Schultz*, 335 F.Supp.3d 1216 (2018), and inappropriately provides commentary on its own desired policy changes.

The mineral owners contend that compliance with integration statutes and rules is insufficient to satisfy due process, improperly relying on the *Schultz* case. Nowhere does the District Court in *Schultz* take this position or hold that existing rules are inadequate. Rather, the District Court stated:

This conclusion does not affect the hearing officers’ ability to exclude irrelevant or unnecessary testimony or evidence, or the Commission’s discretion to determine what factors should be considered when determining whether the terms and conditions of integration order are “just and reasonable.” Rather, it simply recognizes that due process requires a meaningful opportunity to be heard, and in these circumstances, that Plaintiffs and other nonconsenting landowners know the standard which the hearing officer will apply in considering whether the integration order is just and reasonable.

CAIA v. Schultz, 335 F.Supp.3d at 1228-29 (emphasis added). In fact, “the Commission has a significant amount of discretion to decide what ‘just and reasonable’ means.” *Id.*, at 1226. The District Court explained that due process does not require a specific outline or check-list for these hearings, but only “the opportunity to be heard in a ‘meaningful manner’ ... tailored to the capacities and circumstances of those who are to be heard.” *Id.*, at 1227. Such opportunity is being provided here.

Additionally, nothing in the *Schultz* decision requires the Commission to revise its rules to develop “just and reasonable” factors. If an individual or group wants to engage in policy changes, then they may do so in the appropriate venue, i.e., in the legislature. However, such desired changes to policy in general have no bearing on the Administrator’s issuance of a “just and reasonable” integration order in this matter.

The conclusory suggestion by the mineral owners that their “proposals for substantive factors should be adopted” does not answer the question of whether they are reasonable, or how that determination should be made. AMI and the Department both pointed out that relevant factors to be considered in determining whether to adopt a particular term or condition included whether the proposed condition complies with applicable statute (i.e., the Act) or rules (i.e., IDAPA 20.07.02) and is consistent with established industry standard, and whether the condition is within the authority of the Commission to grant. The responding mineral owners have not responded to that discussion. While the mineral owners are certainly entitled to a reasonable opportunity to be heard, that does not equate to adoption of any terms and conditions they want, particularly if those conditions conflict with the purposes of the Act and/or exceed the Commission’s jurisdiction and authority. Under those circumstances, it is entirely rational for

the Administrator to reject them. The mineral owners will presumably have the opportunity to establish whether terms and conditions they seek comport with the Act and the Commission's authority or can otherwise be considered just and reasonable per the discussion in the Administrator's July 10, 2019 Order.

DATED this 21st day of August, 2019.

SMITH + MALEK, PLLC

A handwritten signature in blue ink, appearing to read "Michael Christian", is written over a light blue rectangular background.

MICHAEL CHRISTIAN
Attorney for Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of August, 2019, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

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City of Fruitland Attn: Rick Watkins-City Clerk PO Box 324 Fruitland ID 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email
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/s/ Lauren Smyser

LAUREN SMYSER