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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of AM	)	Docket No. CC-2019-OGR-01-002
Idaho, LLC for Spacing Order and to	)	
Integrate Unleased Mineral Interest	)	MOTION TO INTEVENE ON BEHALF
Owners in the Drilling Unit Consisting of	)	OF EFFECTED BUT EXCLUDED
the SW 1.4 of Section 10, Township 8	)	MINERAL RIGHTS OWNERS AND
North, Range 5 West, Boise, Meridian,	)	MOTION TO REOPEN HEARING
Payette County, Idaho.	)	
	)	
	)	
	)	
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COMES NOW Carrie Grant, Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, Dana Harris, and Sandra Dunlap, by and through counsel of record and hereby move the Commission and Idaho Department of Lands to permit them to intervene as parties in this proceeding, and to reopen the record and allow them to submit evidence and argument in support in a determination as to what factors will be considered by the Commission and Department in establishing just and reasonable terms in the event that AM Idaho, LLC's application for spacing and integration is approved.

Carrie Grant, Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, Dana Harris, and Sandra Dunlap are each mineral rights owners in Fruitland, Idaho. Each of them holds mineral rights which include a

portion of the hydrocarbon pool that has been identified by AM Idaho, LLC, and as to which AM Idaho, LLC has applied for a spacing and integration order. Each of them, however, has received no formal notice of this proceeding, has not been permitted to participate in this proceeding (which they did not know about), but has at stake their mineral interests in the hydrocarbons below their surface estates.

In 2016, AM Idaho, LLC moved for a spacing and integration order covering a unit of 625 acres. This unit consisted of four ¼-sections, with one of those ¼-sections being smaller than typical because of the placement of the Idaho-Oregon border in the Snake River. See, application of AM Idaho, LLC in Case No. CC-2016-OGR-01-004. While that unit and integration were ultimately approved by the Commission, the order so approving was later vacated by the United States District Court. Despite the vacating of that order, AM Idaho still has leases with numerous mineral rights holders in that 625 acre area, including some of the proposed intervenors.

On June 24, 2019 AM Idaho filed a new application for spacing and integration for a proposed unit covering only a single ¼-section of 160 acres. The proposed spacing unit, if approved, would exclude from any right to receive royalties the owners of some 465 acres which overlie the hydrocarbon pool identified by AM Idaho. The current application claims that although the identified pool of natural gas has not changed from that which was identified in the 2016 application, AM Idaho now believes that only the gas from under 160 acres can be “economically” extracted. See Application in Case No. CC-2019-OGR-01-002. By merely claiming that 465 acres were not “economical” AM Idaho believes it can exclude those mineral rights holders from both receiving royalties and from participating in this case. Permitting AM

Idaho to exclude these mineral rights owners would violate the rights of the owners to due process of law.

It is axiomatic that no public entity, including an oil and gas conservation commission can deprive a mineral rights owner of their minerals without due process of law. U.S. Constitution, Amendments 5, 14. AM Idaho identified a large pool of hydrocarbons, underlying possibly as many as 625 acres. The precise shape and size of the pool were unknown, being estimated within the limits of available data and the state of the art in reading geologic data. In its current application, AM Idaho does not claim that the previous estimated extent of the hydrocarbon pool was incorrect, instead it claims that a smaller portion of that pool can be “economically” extracted. As a result, AM Idaho draws an arbitrary line which happens to be coextensive with a ¼-section boundary, and seeks an order that would allow it to extract all the gas it can, but pay royalties only to the owners of those 160 acres.

Natural gas, as the Commission well knows, exists in liquid and gaseous forms. It is sometimes trapped within geologic structures (as appears to be the case here), but within those structures it flows as a liquid and/or a gaseous substance. When hydrocarbons currently resting below the 160 acres encompassed by the current application are removed, they will be replaced, at least in part, by gaseous or liquid hydrocarbons that previously rested under some portion of the 465 acres that AM Idaho now seeks to exclude from its requested spacing and integration orders. In short, Intervenors believe they can show that the minerals to which they hold rights will be removed from their property and subtracted from their existing mineral rights, against their will and without compensation of any sort. To address this possibility they seek to intervene in the current application and to participate as full, interested parties in all proceedings.

The Commission has a statutory duty to ensure that the terms of any integration order are “just and reasonable.” I.C. 47-320(1). It has decided that it will act on a case by case basis to determine what “just and reasonable” will mean. To that end, in September, 2019, the Director of the Idaho Department of Lands held a hearing to review and consider the positions of interested parties in determining what factors would be addressed in evaluating whether the present application was on terms that are “just and reasonable.” The Intervenors had neither notice nor an opportunity to participate in that process. Neither AM Idaho nor the Commission provided notice to the proposed Intervenors. As a result, the Intervenors have been denied the process due in that they should have been permitted to file briefs and appear to argue their positions with respect to just and reasonable terms.

For all of the foregoing reasons, the proposed Intervenors seek an order (1) allowing them to intervene as parties in this matter; (2) reopening the record to give them a reasonable opportunity to submit written arguments and to make an oral presentation regarding the factors that should be addressed in establishing just and reasonable terms; and, (3) an order directing notice to all of mineral rights owners with an interest in the larger pool of hydrocarbons which will necessarily be depleted when and if AM Idaho is allowed to commence extraction operations at the Fallon well.

Dated this 7<sup>th</sup> day of October, 2019

PIOTROWSKI DURAND, PLLC

          /s/          James M. Piotrowski            
James M. Piotrowski  
Attorneys for Proposed Intervenors

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of October, 2019, I caused to be served a true and correct copy of the preceding motion in Docket No: CC-2019-OGR-01-002 by the method indicated below and addressed to the following:

Idaho Department of Lands Attn: Mick Thomas 300 N. 6 <sup>th</sup> Street, Suite 103 PO Box 83720 Boise, ID 83720 <a href="mailto:kromine@idl.idaho.gov">kromine@idl.idaho.gov</a>	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
AM Idaho, LLC c/o Michael Christian Smith & Malek, PLLC 101 S. Capitol Blvd, Suite 930 Boise, ID 83702 <a href="mailto:mike@smithmalek.com">mike@smithmalek.com</a>	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Kristina Fugate Deputy Attorney General PO Box 83720 Boise ID 83720-0010 <a href="mailto:kristina.fugate@ag.idaho.gov">kristina.fugate@ag.idaho.gov</a>	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
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James Thum Idaho Department of Lands PO Box 83720 Boise ID 83720-0050	U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input type="checkbox"/>
City of Fruitland Attn: Rick Watkins-City Clerk PO Box 324 Fruitland, ID 83619	U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input type="checkbox"/>
Anadarko Land Corp. Attn: Dale Tingen 1201 Lake Robbins Dr The Woodlands TX 77380	U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input type="checkbox"/>
James Piotrowski P.O. Box 2864 Boise, ID 83701-2864 <a href="mailto:james@idunionlaw.com">james@idunionlaw.com</a>	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>

\_\_\_\_\_ /s/ James M. Piotrowski  
 James M. Piotrowski